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RECORD, CASE NO. 14865.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1891.

TERM NO. 1391.

THE UNITED STATES, APPELLANT,

vs.

DAVID E. BUDD AND JAMES B. MONTGOMERY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

FILED SEPTEMBER 28, 1891.

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No. 1813.

In the district court of the second, holding terms at Vancouver, W. T.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND JAMES B. MONTGOMERY, defendants.

Transcript from district court.

Filed November 19, 1889.

SOL. SMITH, *Clerk, Sup. Ct.*
By A. S. AUSTIN, *Deputy* " "

4 In the district court of the second judicial district of Washington Territory holding terms at Vancouver, W. T.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND J. B. MONTGOMERY, defendants. } In equity.

Complaint.

To the judge of the district court of the second judicial district of Washington Territory.

The United States of America brings its bill against David E. Budd and J. B. Montgomery, and for cause of action says:

1. That heretofore, to wit, on the 23rd day of August, A. D. 1882, and for many years prior thereto, plaintiff was the owner of the following lands and premises situated in Cowlitz County, Washington Territory, and more particularly described as follows, to wit:

The southeast quarter (SE. ¼) of section twelve (12), township nine (9) north, range one (1) west, Willamette meridian.

5 2. That said lands on, to wit, the said 23rd day of August, A. D. 1882, were and for many years prior thereto had been surveyed public land and part of the public domain of the United States, and during all of said time said lands had been offered at public sale according to law. All of which said defendants at all times well knew.

3. That said lands and the whole thereof during all the time hereinbefore mentioned were and now are agricultural lands of a superior quality, having a good clay loam soil with the surface thereof gently rolling, and being well watered by numerous small streams of water running across said lands, and said lands at the times aforesaid were and now are valuable chiefly for agricultural purposes and were and are susceptible of tillage and cultivation in grain, vegetables, and other agricultural products, and are not now, were not then, nor have they ever been valuable chiefly for timber or stone. All of which said defendants at all times well knew.

4. That heretofore, to wit, on said 23rd day of August, A. D. 1882, the said defendant, David E. Budd, pretending to be desirous of availing himself of the provisions of an act of Congress of the United States of America, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," approved June 3rd, 1878, with the knowledge, at the instigation, and in the
6 interest of the said defendant, J. B. Montgomery, unlawfully, willfully, knowingly, and fraudulently filed with the United States land register of the proper district, to wit, with the register of the United States land office at Vancouver, Washington Territory, a written statement, in duplicate (one of which statements was to be transmitted to the General Land Office of the United States), designating in said statements by legal subdivisions the particular tract of land he, said defendant, David E. Budd, desired to purchase under said act of Congress, to wit, the land hereinbefore described, and said defendant, David E. Budd, falsely and fraudulently set forth in said written statement, in duplicate, among other things that the said land was unfit for cultivation and valuable chiefly for its timber, and that it contained no improvements except for ditch or canal purposes, save such as were made by or belonged to said defendant and applicant; and also that he, said defendant, David E. Budd, did not apply to purchase said land on speculation but in good faith, to appropriate it to his own exclusive use and benefit; and also that he, said defendant, had not directly or indirectly made any agreement or contract in any way or manner with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself.

7 Which statement, before filing, was verified by the oath of said applicant, the said defendant, David E. Budd, before Fred W. Sparling, the register of the said land office within the district where the said land is situated.

5. That all of the said averments and declarations contained in said written application, as said defendants then and there well knew, were false and fraudulent, and more especially in the following particulars, to-wit, that in truth and in fact said defendant, David E. Budd, applied to purchase said land as aforesaid on speculation, and not intending in good faith to appropriate said land or timber to his own exclusive use or benefit, and also, in this, to wit, that he, the said defendant, David E. Budd, had theretofore unlawfully and fraudulently made an agreement or contract with said defendant, Montgomery, by which the title which he, the said David E. Budd, might acquire from the Government of the United States should inure to the benefit of said defendant, J. B. Montgomery. And also, in this, to wit, that said land was agricultural in character, fit for cultivation and valuable chiefly for agricultural purposes, and said land was not at said or any time valuable chiefly for its timber. And also in this, to wit, that said land contained the following improvements, which did not belong to said defendant, David E. Budd, viz, one log
8 cabin, 12 x 14, in good serviceable condition, and about two acres of said land, on and prior to said 23rd day of August, A. D. 1882, had been and ever since that time have been cultivated and fenced in; and also in this, to wit, that said land was traversed by a public traveled road or highway, known as and called the McWiggin road. And plaintiff says

that the value of said improvements, exclusive of said road, at the time said application to purchase said land was made by said defendant, David E. Budd, as aforesaid, was $100 and upwards.

6. Plaintiff further answers that afterwards such proceedings were had in the matter of said application of said David E. Budd to purchase said land as that on the 10th day of November, A. D. 1882, testimony was taken in said matter before the said register of the said United States land office at Vancouver, Washington Territory.

7. That upon said hearing the said David E. Budd, acting in concert with and on behalf of the said defendant, J. B. Montgomery, for the purpose of furnishing said United States land office satisfactory evidence that the said land was of the character contemplated in said act, and that said land was unoccupied and without improvements other than those in said act accepted, either mining or agricultural, produced before said register of said land office the following evidence, and none other, in support of said application, to wit: The evidence of one Robert Rockwell and
9 of one George F. White, both of whom knowingly, willfully, falsely, and fraudulently testified under oath in support of said application substantially as follows, to wit: That there were at the time of said hearing no improvements upon said land not made by or belonging to said applicant; that said land was not fit for cultivation, because it was cut up with ravines, broken and stony; that said land was chiefly valuable for timber; that the surface of said land was too rough for cultivation, and said land was unfit for farming purposes. All of which said testimony was wilfully false and foresworn, as both of said defendants then and there well knew.

8. Plaintiff further shows unto your honor that afterwards, and on said 10th day of November, A. D. 1882, the said register of said United States land office, relying upon the said false, fraudulent, and foresworn testimony of said witnesses, procured and adduced by defendants as aforesaid, as being true, permitted the said defendant David E. Budd to enter said land, and said defendant then and there received from the said receiver a certificate in the words and figures following, to wit:

No. 2033. Land Office, Vancouver, W. T., Nov. 10th, 1882. It is hereby certified that, in pursuance of law, David E. Budd, Cowlitz County, Wash. Ter., on this day purchased of the register of this office the south-
10 east quarter of section No. twelve (12), in township No. 9 north, of range No. 1 West, Will. meridian, containing one hundred and sixty acres, at the rate of two dollars and fifty cents, for which the said David E. Budd has made payment in full, as required by law: Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, the said David E. Budd shall be entitled to receive a patent for the lot above described. Fred W. Sparling, register. Act of July 3rd, 1878.

9. That afterwards the papers and testimony in the said case or application were transmitted by the proper officer of said United States land office at Vancouver, W. T., to the General Land Office of the United States at Washington City, D. C.

10. Plaintiff further shows unto your honor that afterwards, and on or about the 5th day of May, A. D. 1883, the plaintiff herein, through its proper officers, relying upon the said false and fraudulent written applica-

tion and testimony as being true and pursuant to said certificate issued by the said United States land office at Vancouver, W. T., gave and granted to said defendant David E. Budd, his heirs and assigns, by patent, said land and premises hereinbefore described.

11. Plaintiff further shows unto your honor that on or about the 4th day of December, A. D. 1882, in pursuance of said fraudulent agreement or contract previously entered into between said defendants David
11 E. Budd and J. B. Montgomery, the said defendant David E. Budd unlawfully and fraudulently signed, sealed, executed, and delivered to said defendant J. B. Montgomery a pretended warranty deed for said land and premises, which said deed was afterwards and on or about May 25th, 1885, recorded on page 356, of Book I, of deeds of the land records of said Cowlitz County, and the said defendant J. B. Montgomery now, under and by virtue of said pretended conveyance, falsely and fraudulently asserts title in fee to said land and claims to be entitled to the possession thereof.

All of which actings and doings of said defendants are contrary to equity and good conscience, and tend to the manifest wrong, injury, and oppression of plaintiff.

In consideration whereof, and for as much as plaintiff is entirely remediless in the premises at and according to the strict rules of the common law, and can have relief only in a court of equity where matters of this nature are properly cognizable and reliable, plaintiff prays:

1. That the said defendants David E. Budd and J. B. Montgomery may be required, upon their several and respective oaths, full, true, direct, and perfect answers to make to all and singular the matters and things hereinbefore stated and charged as fully and particularly as if the
12 same were hereinafter repeated and they thereunto distinctly interrogated, and that not only as to the best of their several respective knowledge and remembrance, but also as to the best of their several and respective information, hearsay, and belief.

2. That said patent heretofore issued and delivered by the plaintiff herein to the said defendant David E. Budd and the said pretended warranty deed from said defendant David E. Budd to said defendant J. B. Montgomery for said land and premises, to wit: The S. E. ¼ sec. 12, T. 9 N., R. I. W., Will. mer. be declared by this court to be null and void and of no effect, and that said patent and said deed be annulled, vacated, and set aside.

3. That said defendants and each of them, their confederates, if any, and all persons claiming through or under them, be enjoined and restrained by the injunction of this court from asserting any right, title, or interest in said land or any part thereof.

4. That plaintiff have judgment for its costs and disbursements herein. And that it have such other and further relief as may be equitable.

W. H. WHITE,
United States Attorney, Washington Territory, Attorney for Plaintiff.

Endorsed and filed March 15, 1886. R. G. O'Brien, clerk. G. F. McConnell, deputy.

13 In the district court of the second judicial district of Washington Territory, holding terms at Vancouver, W. T.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND J. B. MONTGOMERY, DEFENDANTS. } In equity.

Precipe for summons.

To the clerk of said court:

Please issue summons in above-entitled cause, and insert in the body thereof the following statement, to wit:

This action is brought by plaintiff against defendants to annul, vacate, and set aside a certain United States patent issued by the Government of the United States on the 5th day of May, 1883, to defendant David E. Budd for certain lands in Cowlitz County, Washington Territory, to wit: SE. ¼ sect. 12, T. 9 N., R. 1 W., W. M. And also to vacate and set aside a certain deed from said Budd to his codefendant for said land, executed 4th Dec., 1882, in pursuance of an alleged fraudulent
14 agreement previously entered into between defendants, which deed was recorded May 25th, 1885, on page 356 of Book I, deeds of land records of said Cowlitz County.

Plaintiff alleges that said land on and prior to August 23rd, 1882, was public land of United States which had theretofore been surveyed and offered at public sale according to law; that said land is and was agricultural lands of superior quality, chiefly valuable for agricultural purposes, and not valuable chiefly for timber or stone. That on said 23rd day of August, 1882, defendant Budd, in the interest and at request of his codefendant, filed a false, fraudulent written application under oath with the register of the United States land office at Vancouver, W. T., to purchase said lands as timber lands, falsely asserting in said application that said land was unfit for cultivation, and was valuable chiefly for its timber, and contained no improvements save such as belonged to said Budd. That said statement contained other false and material statements, and that defendants at all times knew the same were false. That on November 10th, 1882, defendants acting together by false and foresworn testimony as to the character of said land, and by testimony false in other material respects, procured a certificate to be issued by said register to said Budd, authorizing said Budd upon presentation of said certificate
15 to General Land Office to receive patent for said lands under act of Congress of June 3, 1878.

That afterwards patent upon said application and testimony and certificate was issued.

Plaintiff also prays for injunction against defendants from asserting title, right, or interest in said land, also for costs and disbursements and general relief. All of which will more fully appear from the complaint on file herein, reference whereto is hereby made.

Please insert also in said summons the title of said action in full.

Very respectfully,

W. H. WHITE,
U. S. Att'y W. T., Attorney for Plaintiff.

Endorsed and filed March 15, 1886. R. G. O'Brien, clerk, by M. G. McConnell, deputy.

16 In the district court of the second judicial district of Washington Territory holding terms at Vancouver.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND JAMES B. MONTGOMERY, defendants.

Demurrer.

Come the above-named defendants and demurr to the whole of the complaint filed herein, because—

1. The court has no jurisdiction of the subject-matter of the action.
2. That the complaint does not state facts sufficient to constitute a cause of suit, or ground for equitable relief against defendants.

B. F. DENNISON,
H. T. BINGHAM,
Attorneys for Defendants.

Endorsed and filed Nov. 30th, 1886. R. G. O'Brien, clerk. M. G. McConnell, deputy.

17 In the district court of the second judicial district of Washington Territory holding terms at Vancouver.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND J. B. MONTGOMERY, defendants.

Answer of J. B. Montgomery.

To the judge of the above-entitled court:

The defendants of J. B. Montgomery still insisting that the bill of complaint does not state facts sufficient to constitute a cause of suit or any grounds for equitable relief, makes answer to the bill as follows:

1. For answer to paragraph 1 of the bill, this defendant denies that the action is brought under and by virtue of the authority or direction of the Attorney General of the United States.

2. For answer to paragraphs 2 and 3 of the bill, the defendant says he is informed and believes the lands mentioned and described in said paragraphs were on the 23rd day of August, 1882, and prior thereto, a part of the public domain of the United States, and were surveyed lands; but as to the residue of said paragraphs, he has no knowledge or information sufficient to form a belief.

18 3. For answer to paragraph 4 of the bill defendant denies that on the 23rd day of August, 1882, or at any of the times mentioned in the bill, the lands therein designated were agricultural lands of superior quality or were agricultural lands at all; he denies said lands were or now are chiefly valuable for agricultural purposes, or susceptible of tillage or cultivation in grain, vegetables, or other agricultural products.

The defendant denies that said lands at the time or times alleged were not chiefly valuable for timber or stone, and alleges that said lands were valuable chiefly for timber and were unfit for cultivation.

4. For answer to paragraph 5 of the bill defendant denies that on the 23rd day of August, 1882, or at any other time, the defendant David E. Budd, at the instigation or in the interest of this defendant, filed with the register of the land office at Vancouver the written statement mentioned in said paragraph 5, and denies that said David E. Budd filed any written statement with said register at the instigation or in the interest of this defendant.

As to the residue of said paragraph 6, the defendant has no knowledge or information sufficient to form a belief, and is unable to make other or further answer thereto.

19 5. For answer to paragraph 6 of the bill, this defendant denies that all or any of the averments and declarations contained in the written statement filed by the said David E. Budd were false or fraudulent. He denies that the defendant David E. Budd had theretofore unlawfully, fraudulently, or otherwise made an agreement or contract with him, this defendant, by which the title which the said Budd might acquire from the United States should enure to the benefit of this defendant, and denies that any such agreement or contract was made at any time until after the said David E. Budd had purchased and paid for the said land and had received from the said register of said land office the certificate of purchase mentioned in the bill of complaint.

The defendant, further answering said paragraph 6, says he is informed and believes and alleges that the lands mentioned in said written statement or application were not and are not agricultural lands fit for cultivation and were not and are not valuable chiefly for agricultural purposes, but on the contrary, that said lands were and are valuable chiefly for timber and unfit for cultivation. This defendant further says he is informed and believes that said David E. Budd applied to purchase and did purchase said lands in good faith to appropriate the same to his own exclusive benefit, and did so appropriate the same.

20 Further answering, defendant says that he is informed and believes that there was upon said lands a log cabin which had been abandoned, and which was in no condition for habitation by a human, and that there was about two acres that had prior to the 23rd day of August, 1882, been somewhat cultivated and fenced in by fallen trees and brush, but that the same had been abandoned, and was not under cultivation when the said David E. Budd made his application to purchase; and upon such information and belief he denies that the improvements on said lands at the time of said application were worth the sum of $100.00, or were worth any greater sum than $10.00, and were worth said last mentioned sum only by putting an additional outlay of at least $50.00 on the cabin, in labor, to make it habitable, and that without such additional outlay such improvements were worth nothing.

Further answering defendant says that with the exception of the said two acres aforesaid, the remainder of said lands were and are unfit for cultivation, and valuable chiefly for the timber thereon.

6. For answer to paragraph 7 of the bill, defendant says he admits the matters therein set forth to be true, as he is informed and believes.

7. For the answer to paragraph 8 of the bill, defendant denies that upon the hearing of said application, or in furnishing evidence in sup-
21 port thereof, the said David E. Budd was acting in concert with, or in behalf of this defendant, as alleged in said paragraph 8 or otherwise.

This defendant further says he is informed and believes that the said David E. Budd in support of his application to purchase said lands did produce before the register of said land office one Robert Rockwell and one Geo. F. White, both of whom testified in substance that the lands were unfit for cultivation and were valuable chiefly for timber and unfit for farming purposes, and that their testimony so given was true, and was not fraudulent or false in any particular.

8. For answer to paragraph 9 of the bill, defendant says he is informed and believes that on the 10th day of November, A. D. 1882, the register of said land office permitted the said David E. Budd to enter said lands and that he, the said David E. Budd, then and there received from the register of said land office the certificate of purchase No. 2033, set forth in said paragraph 9, but denies that the testimony of said witnesses, or either of them, was false, fraudulent, or foresworn, and denies that said register, in permitting said entry, or the register in issuing said certificate relied upon false, fraudulent, or foresworn testimony.

9. For answer to paragraph 10 of the bill, defendant says that
22 the papers and testimony in said case or application were, as he is informed and believes, transmitted to the General Land Office as is alleged.

10. For answer to paragraph 11 of the bill defendant says he is informed and believes that on or about the 5th day of , 1883, the plaintiff, through its proper officers, pursuant to said certificate, gave and granted to the defendant, David E. Budd, his heirs and assigns, by patent, or pretended so to do, the lands described in said certificate and in the bill of complaint, but denies that in so doing the plaintiff or its officers relied upon false or fradulent testimony, or upon a false or fraudulent application to purchase said lands.

11. For answer to paragraph 12 of the bill defendant admits that on or about the 4th day of December, 1882, the defendant, David E. Budd, executed and delivered to this defendant a warranty deed for said lands, and that said deed was recorded at the time and place alleged, and by virtue of said deed he claims to own all the title which the defendant, David E. Budd, acquired from the United States by virtue of the application, proofs, payments, and proceedings made and had in the United States land office, and of the certificate and patent issued to him in pursuance of his said application and proof in support thereof.

But this defendant denies that said deed was executed and de-
23 livered pursuant to any agreement or contract, fraudulent or otherwise, entered into or made between this defendant and the said David E. Budd at any time before the said David E. Budd had purchased and paid for said lands, and had received from the register of said land office the aforesaid certificate of purchase.

The defendant denies that he falsely or fraudulently asserts title to said lands, or falsely or fraudulently claims to be entitled to the possession thereof.

He denies that his actings and doings in the matters set forth in the complaint were or are contrary to equity and good conscience, and denies that his said actings and doings or any of them tend in any manner to the wrong or injury of the United States.

Wherefore defendant prays that the bill of complaint may be dismissed with costs against the plaintiff, and for such other order, decree, and judgment as may be just and proper in the premises.

B. F. DENNISON,
H. T. BINGHAM,
Atty's for Defendant, J. B. Montgomery.

UNITED STATES OF AMERICA, *District of Oregon, ss:*

J. B. Montgomery, being duly sworn, says he is one of the defendants in the above entitled cause, that he has read the foregoing answer
24 and knows the contents thereof, and that the same are true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

J. B. MONTGOMERY.

Sworn to and subscribed before me this 25th day of May, 1887.

[L. S.] R. H. SAMSON,
Clerk U. S. District Court, District of Oregon.

Endorsed and filed May 28, 1887. R. G. O'Brien, clerk, by W. H. Johnson, deputy.

In district court of the second judicial district of Washington Territory holding terms at Vancouver.

THE UNITED STATES OF AMERICA, plaintiff, *vs.* DAVID E. BUDD AND J. B. MONTGOMERY, defendants. } In equity. No. 1813.

Answer to David E. Budd.

To the judge of the above-entitled court:

25 David E. Budd, one of the defendants in the above-entitled suit, still insisting that the bill of complaint does not state facts sufficient to constitute a cause of suit, or any ground for equitable relief, makes answer to the bill of complaint, as follows:

2. (This section has been stricken out in original with pencil.)

3. For answer to paragraph 4 of the bill, defendant says that it is not true on the 23d day of August, 1882, or at any of the times mentioned in the said bill, the land therein described and designated were agricultural lands of superior quality, or were agricultural lands at all; he denies that said lands were valuable cheifly for agricultural purposes, or susceptible of tillage or cultivation in grain, vegetables, or other
26 agricultural products; he denies that said lands at the time or times alleged were not valuable chiefly for timber or stone, and alleges that said lands were valuable chiefly for timber, and were unfit for cultivation.

4. For answer to paragraph 5 of the bill, defendant denies that on the 23rd day of August, 1882, or at any time, he, at the instigation or in the

interests of the defendant J. B. Montgomery, or otherwise, unlawfully or fraudulently filed with the register of the United States land office at Vancouver the written statement mentioned in said paragraph 4, or that he unlawfully filed any written statement with said register. He denies that in the written statement filed by him he falsely or fraudulently set forth in said statement that said lands were unfit for cultivation, or were valuable chiefly for timber; he denies that he falsely or fraudulently set forth in said statement that he did not apply to purchase said lands on speculation, but in good faith to appropriate the same to his own exclusive use and benefit; he denies that he falsely or fraudulently set forth in said statement that he had not directly or indirectly made any agreement or contract in any way or manner, with any person or persons whatever, by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself, and the defendant alleges that each and all of
27 the said matters set forth in said statement, or in any statements made and verified by him on making application to purchase said lands, were true, and were made in good faith, without any fraudulent design or purpose whatever.

5. For answer to paragraph 6 of the bill, defendant denies that all or any of the "averments" and "declarations" contained in the written application, or in any written application, or statement were false or fraudulent.

He denies that he applied to purchase said land on speculation, not intending in good faith to appropriate said land or timber to his own exclusive use and benefit; he denies that prior to purchasing and paying for said lands, he had unlawfully, fraudulently, or otherwise made an agreement or contract with defendant J. B. Montgomery, by which the title, which he, the defendant might acquire from the Government of the United States, should inure to the benefit of the said J. B. Montgomery.

He denies that the lands described in his application were agricultural in character, fit for cultivation or valuable chiefly for agricultural purposes, and denies that said lands at said time were not valuable chiefly for timber. He admits that there was upon the said land a log cabin which did not belong to him, but says that the said cabin did not belong to any other private person but had been abandoned, that it was not in a serv-
28 iceable condition for habitation, by a human being, he admits that prior to said 23rd day of August, 1882, about 2 acres of said land had been fenced in and had been somewhat cultivated, but he denies that at the time of his said application, the said land was under cultivation, and he avers that with the exception of the said two acres, or less, the remainder of said tract was and is unfit for cultivation, and is valuable chiefly for the timber thereon; he denies that the improvements exclusive or inclusive of said road on said land at the time of said application were worth the sum of $10.00 or were worth any greater sum than $10.00, and said improvements were worth said last mentioned sum, by putting an additional outlay of not less than $50 on the cabin, in labor, to make it habitable, and that without such additional outlay the said improvements were worth nothing.

6. For answer to paragraph 7 of the bill, defendant admits that proceedings in the matter of his application to purchase said lands were had,

and that on the 10th day of November, 1882, testimony was taken in said matter before the register of the land office at Vancouver.

7. For answer to paragraph 8 of the bill, defendant denies that upon the theory of his said application he was acting in concert with or on behalf of the defendant J. B. Montgomery, and denies that he was so
29 acting in producing evidence that said lands were of the character contemplated in said act of Congress or in any other manner, or for any purpose. He denies that he fraudulently produced before the register of the land office, the evidence of one Robert Rockwell and one George F. White, or of either of them, in support of his said application, and denies that both or either of them, knowingly, willfully, or fraudulently testified falsely in support of said application in the particulars specified, or in any particular or particulars. He denies that the testimony of Robert Rockwell, or of George F. White, given in support of said application, or any part of said testimony, was false or foresworn.

8. For answer to paragraph 9 of the bill, defendant admits that on the 10th day of November, 1882, the register of the said land office permitted this defendant to enter said land and that this defendant then and there received from the receiver of said land office a certificate in the words and figures as set forth in said paragraph 9 of the complaint.

9. For answer to paragraph 10 of the bill, defendant says that he is informed and believes, and so states, that afterwards the papers and testimony in said case or application, were transmitted by the proper officers of the land office at Vancouver, to the General Land Office at Washington City, in the District of Columbia, as alleged.

30 10. For answer to paragraph 11 of the bill, defendant admits that on or about the 5th day of May, 1883, the plaintiff, through its proper officers, pursuant to the aforesaid certificate of purchase, gave and granted the lands described in the said bill by patent executed in due form and delivered.

11. For answer to paragraph 12 of the bill, defendane says it is true that on or about the 4th day of December, 1882, after he had purchased and paid for the said land and had received the certificate of purchase as aforesaid, he did execute and deliver to the said defendant J. B. Montgomery, a warranty deed of said lands, which deed was afterwards recorded as alleged, but this defendant denies that said deed was executed or delivered in pursuance of any agreement or contract, fraudulent or otherwise entered into between this defendant and the said J. B. Montgomery, prior to the time when this defendant purchased and paid for said lands, and had received the certificate of purchase herein before mentioned. Defendant denies that he unlawfully or fraudulently signed, sealed, executed or delivered, said deed and denies that the defendant J. B. Montgomery falsely or fraudulently asserts title to said land, or a right to the possession thereof. Defendant denies that any of the
31 acts or things done by the defendants or either of them, in the premises were or are contrary to equity and good conscience, or in any manner tend to the wrong of injury of to the plaintiff.

Wherefore, defendant prays that the bill be dismissed, and for such other and further order as may be proper in the premises.

H. T. BINGHAM and
B. F. DENNISON,
Attorneys for Defendant, D. E. Budd.

UNITED STATES OF AMERICA, *District of Oregon, ss.*

David E. Budd, being duly sworn, says that he is the defendant in the above-entitled cause, that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

D. E. BUDD.

Sworn to and subscribed before me this 12th day of November, 1887.

[L. S.] H. W. HOGAN,
Notary Public for the State of Oregon.

Endorsed and filed November 15th, 1887, A. Reeves Ayres, clerk.

32 In the district court holding terms at Vancouver.

THE UNITED STATES
vs.
DAVID E. BUDD AND J. B. MONTGOMERY. } No. 1813.

Notice to strike.

The plaintiff moves the court to strike from the files Montgomery's and Budd's answer, because the denials therein and the new matters therein are not separately pleaded.

W. H. WHITE, *U. S. Attorney.*

Endorsed and filed Nov. 16, 1887. A. Reeves Ayres, clerk.

THE UNITED STATES
vs.
DAVID E. BUDD AND J. B. MONTGOMERY. } No. 1813.

And now comes on to be heard the motion of the plaintiff to strike the answer of the defendants from the files, and the defendants electing to strike out certain matters in said answer, and to treat the said answers as denials only of the allegation of the plaintiff's complaint, the motion is denied.

Endorsed and filed Nov. 16, 1887. A. Reeves Ayres, clerk. By W. H. Johnson, deputy.

33 *Record "F," order of court.*

UNITED STATES
vs.
DAVID E. BUDD AND J. B. MONTGOMERY. }

On motion Wm. H. White, U. S. attorney, it is ordered that the clerk of this court file the amended complaint in this action as of the 23rd day of April, A. D. 1887.

SAME
vs.
LEE HOFFMAN AND J. B. MONTGOMERY. } No. 1813. Same order.

SAME
vs.
E. R. BUDD AND J. B. MONTGOMERY. } No. 1813. Same order.

(Filed Nov. 16, 1887. A. Reeves Ayres, clerk. By W. H. Johnson, deputy.)

Record "F," journal entry.

UNITED STATES
vs.
DAVID E. BUDD AND J. B. MONTGOMERY. } No. 1813.

And now on this day this cause coming on for trial before the
34 court, the United States appearing by Wm. H. White, esq., of counsel, and the defendants by B. F. Dennison and Raleigh Stott, esq's., of counsel, and, by agreement in open court, John W. Cochron, esq., stenographer, is appointed to take down the testimony in this cause in short hand and to transcribe the and report same to the court, and the said reporter being sworn, the cause proceeded by hearing the evidence.

(Endorsed and filed Nov. 22nd, 1887. A. Reeves Ayres, clerk. By W. H. Johnson, deputy.)

Amended complaint.

THE UNITED STATES OF AMERICA, plaintiff,
vs.
D. E. BUDD AND J. B. MONTGOMERY, defendants. } No. 1813.

To the judge of said district court:

Plaintiff files, by leave of court, its amended complaint, and alleges:

I.

This action is brought under and by authority and direction of the Attorney-General of the United States.

II.

That therefore, to wit, on the 23rd day of August, A. D.
35 1882, and for many years prior thereto, plaintiff was the owner of the following lands and premises, situated in Cowlitz County, Washington Territory, and more particularly described as follows, to wit:

The southeast quarter of section twelve, in town nine north, of range one west, Williamette meridian, in the district of lands subject to sale at the United States land office at Vancouver, Washington Territory.

III.

That said lands on, to wit, on said 23d day of August, A. D. 1882, were, and for many years prior thereto had been, offered and surveyed public lands and part of the public domain of the United States, and during all of said times said lands were and had been subject to entry and settlement under the preëmption and homestead laws of the United States, all of which said defendants at all times well knew.

IV.

That said lands and the whole thereof during all the times hereinbefore mentioned were and now are agricultural lands of superior quality, having a good clay loam soil, with the surface thereof gently rolling and being well watered by numerous small streams of water running across said lands, and said lands at the times aforesaid were and now are valuable chiefly for agricultural purposes and were and are susceptible of
36 tillage and cultivation and are not now and were not then nor have they ever been valuable chiefly for timber or stone. All of which said defendants at all times well knew.

V.

That heretofore, to wit, on the 23d day of August, A. D. 1882, the said defendant David E. Budd, pretending to be desirous of availing himself of the provisions of an act of Congress entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," approved June 3d, 1878, with the knowledge, at the instigation, and in the interest of said defendant J. B. Montgomery, unlawfully, willfully, knowingly, and fraudulently filed with the United States land register of the proper district, to wit, with the register of the United States land office at Vancouver, Washington Territory, a written statement in duplicate, one of which statements was to be transmitted to the General Land Office of the United States, designating in said statements by legal subdivisions the particular tract of land *the* said Budd desired to purchase under said act of Congress, to wit, the land hereinbefore described, and he, said Budd, falsely and fraudulently set forth in said written statement in duplicate, among other things, that the said land was unfit for cultivation and valuable chiefly *chiefly* for its timber and that it contained no improvement, except for ditch or canal
37 purposes, save such as were made by or belonged to said defendants, Budd, said applicant, and also that he, said Budd, did not apply to purchase said land on speculation, but in good faith to appropriate to his own exclusive use and benefit; and also that he, said defendant, had not directly or indirectly made any agreement or contract in any way or manner with any person or persons whatsoever, by which the title which he might acquire from the United States should insure in whole or in part to the benefit of any person except himself, which statements before filing were verified by the oath of said applicant, said Budd, before F. W. Sparling, the register of said land office at Vancouver aforesaid.

VI.

That all of said averments contained in said written application, as said defendants then and there well knew, were false and fraudulent, and more especially in the following particulars, to wit:

That in truth and in fact David E. Budd, said defendant, applied to purchase said lands as aforesaid on speculation, and not intending in good faith to appropriate said land or timber to his own exclusive use or benefit, and also in this, to wit:

The said Budd had theretofore unlawfully and fraudulently made an agreement or contract with said defendant J. B. Montgomery, by which

the title which he, said Budd, might acquire from the Government
38 of the United States should inure to the benefit of said defendants Montgomery, and also in this, to wit:

That said lands were agricultural in character, fit for cultivation, and valuable chiefly for agricultural purposes, and said land was not at said time or at any time valuable chiefly for its timber; and also in this, to wit:

That said land contained the following improvements which did not belong to said Budd, to wit:

One log cabin, twelve feet by fourteen feet in size, in good serviceable condition, and about two acres of said land had been on and prior to said 23rd day of August, A. D. 1882, and ever since that time have been cultivated and fenced in; and also in this, to wit:

That said land was transferred by a public traveled road or highway known and called the McWiggin road, and plaintiff says that the value of said improvements exclusive of said road at the time said application to purchase said land was made by said Budd, as aforesaid, was one hundred dollars and upwards.

VII.

That afterwards such proceedings were had in the matter of said application of David E. Budd to purchase said land as that, on the 10th day of November, A. D. 1882, testimony was taken in said matter before the said register of the said United States land office at Vancouver, Washington Territory.

39 ## VIII.

That upon said hearing of the said David E. Budd, acting in concert with and on behalf of said J. B. Montgomery for the purpose of furnishing said United States land office satisfactory evidence that the said land was of the character contemplated in said act, and that said land was unoccupied and without improvements other than those in said act excepted, either mining or agricultural, produced before said register of said land office the following evidence, and none other, in support of said application, to wit: The testimony of one Robert Rockwell and of one George F. White, each of whom knowingly, wilfully, falsely, and fraudulently testified under oath in support of said application substantially as follows, to wit:

That there were at the time of said hearing no improvements upon said land not made by or belonging to said applicant; that said land was not fit for cultivation because it was cut up with ravines, broken, and stony; that said land was chiefly valuable for timber; that the surface of said land was too rough for cultivation and said land was unfit farming purposes, all of which said testimony was wilfully false and foresworn in this, to wit:

That in truth and in fact there were at said time no improvements on said land of the value and character set forth in paragraph 6 of this amended complaint, and in truth and in fact said land was fit for cultivation
40 and was not cut up with ravines nor broken nor stony, so as to render it unfit for cultivation; was not valuable chiefly for timber;

the surface of said land was not too rough for cultivation, and said land was fit and suited for farming purposes. All of which, and the false and foresworn character of said testimony, was well known to said defendants and to each of them.

IX.

That afterwards, and on said 10th day of November, 1882, the said register of said United States land office, relying upon said false, fraudulent, and foresworn testimony of said witnesses, procured and adduced by defendants as aforesaid as being true, permitted the said defendant David E. Budd to enter said land, and said defendant Budd then and there received from the said register a certificate in the words and figures following, to wit:

No. 2033, LAND OFFICE,
Vancouver, W. T., Nov. 10th, 1882.

It is hereby certified that, in pursuance of law, David E. Budd, Cowlitz County, Washington Territory, on this day purchased of the register of this office the southeast quarter of section No. twelve (12), in township No. nine (9), north of range No. one (1), west Willamette meridian, containing one hundred and sixty acres, at the rate of two dollars and fifty cents, for which the said David E. Budd has made payment in full as re-
41 quired by law. Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said David E. Budd shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

X.

That afterwards the papers and testimony in the said case or application were transmitted by the proper officers of said United States land office at Vancouver, aforesaid, to the General Land Office of the United States.

XI.

That afterwards, on or about the 5th day of May, A. D. 1883, the plaintiff herein, through its proper officers, relying upon the said false and fraudulent application and testimony as being true, and pursuant to said certificate issued by the said land office at Vancouver, gave and granted to said defendant David E. Budd, his heirs and assigns, by patent, said land and premises hereinbefore described.

XII.

That on or about the 4th day of December, A. D. 1882, in pursuance of said fraudulent agreement or contract previously entered into between said Budd and said Montgomery, said Budd unlawfully and fraudulently signed, sealed, executed, and delivered to said Montgomery a pretended warranty deed for said land and premises, which said deed
42 was afterwards and on or about the 25th day of May, A. D. 1883, recorded on page 356 of Book I of Deeds of the records of said

Cowlitz County, and the said J. B. Montgomery, now under and by virtue of said pretended conveyance, falsely and fraudulently asserts title in fee to said land and claims to be entitled to the possession thereof.

XIII.

That said land is now of the value of five thousand dollars ($5,000). All of which actions and doings of said defendants are contrary to equity and good conscience, and tend to the manifest wrong, injury, and oppression of plaintiff and for the redress of which plaintiff has no plain or adequate remedy at law, and can have relief only in a court of equity.

Wherefore plaintiff prays:

1. That said defendants, and each of them, may be required upon oath full, true, direct, and perfect answers to make to all and singular the matters and things above stated and charged.

2. That said patent heretofore issued and delivered by plaintiff to said Budd, and the said pretended deed from said Budd to said Montgomery, for said land and premises, be declared to be null and void and of no effect, and that said patent and said deed be annulled, vacated, and set aside.

43 3. That said defendants, and each of them, their confederates, and all persons claiming through or under them, or either of them, be enjoined and restrained from asserting any right, title, or interest in or to said land, or any part thereof.

4. That plaintiff have judgment for costs herein.

5. That plaintiff have such other or further relief as may be equitable.

W. H. WHITE,
U. S. Attorney for Washington Territory.

Endorsed by direction of court, Nov. 16, 1887. A. Reeves Ayres, clerk.

In the district court, holding terms at Vancouver.

UNITED STATES OF AMERICA,
Territory of Washington, Second Judicial District, ss:

Answer of defendant, J. B. Montgomery.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD & J. B. MONTGOMERY, DEFENDANTS. } No. 1813.

To the Judge of the above-entitled court:

44 I.

The defendant, James B. Montgomery, claiming and insisting that the amended bill of complaint does not state facts sufficient to constitute a cause of action or entitle the plaintiff to the relief demanded, makes this amended answer thereto, as follows:

II.

For answer to paragraph III of said complaint, this defendant denies that the lands mentioned and described in paragraph II of said amended bill of complaint, and referred to in paragraph III of said complaint, or

any part thereof, were, on the 23rd day of August, 1882, offered lands, or lands which had been offered at public sale, according to law, and denies that defendants or either of them knew or had any knowledge or notice that said lands or any part thereof were offered lands at said times or ant time. As to whether or not the said lands, or any portion thereof, had ever been offered at public sale according to law, this defendant has no knowledge or information sufficient to form a belief, and therefore denies the same as to whether or not any of said lands were ever at any time subject to entry or settlement under the pre-emption or homestead laws of the United States. This defendant has no knowledge sufficient to form a belief, and therefore denies the same.

45 III.

For further and separate defense to the matter set forth in paragraph II and III of said amended complaint this defendant alleges that the Congress of the United States passed an act approved July 2nd, 1864, and the joint resolution supplemental thereto and amendatory thereof, approved April 10th, 1869, and approved May 31st, 1870, entitled, respectively, "An act granting lands in aid in the construction of a rail and telegraph line from Lake Superior to Puget Sound on the Pacific coast by the Northern route."

"Joint resolution granting right of way for the construction of a railroad from a point at or near Portland, Oregon, to a point west of the Cascade Mountains, in Washington Territory," and a resolution authorizing the Northern Pacific Railroad Company to issue its bonds for the construction of its road and to secure the same by mortgage, and for other purposes."

That by said act of Congress and by said joint resolution of May 31st, 1870, there was granted to said Northern Pacific Railroad Company for the purpose of aiding in the construction of said rail line from Portland, in the State of Oregon, to Puget Sound, in Washington Territory, every alternate section of public land designated by odd numbers to the amount of twenty alternate sections per mile on each side of said railroad as the same
46 should be adopted by said company through the Territory of Washington.

That the general route and line of said road through the Territory of Washington, from Portland, in Oregon, to Puget Sound, and opposite to the lands described in said paragraphs II and III of the amended complaint, which are within the limits of the said grant, was fixed by said company on the 13th day of August, 1870, and a map and plat thereof was on said day filed with the Secretary of the Interior in the office of the Commissioner of the General Land Office.

That on the 13th day of September, 1873, the said line of said road was definitely fixed and located through the Territory of Washington opposite to said lands, and a map showing the definite location of the said line of said railroad was on that day filed with the Secretary of the Interior in the office of the Commissioner of the General Land Office.

That said road was fully constructed as definitely located by said company along and opposite to said premises within the time prescribed by said act and resolutions, and long prior to August 23rd, 1882, and the same approved and accepted by the President of the United States long

prior to August 23rd, 1882; that said act of Congress of July 2nd, 1864, and joint resolution of May 31st, 1870, provided that the reserved
47 alternate sections within the limits of said grant should not be sold by the Government of the United States at a price less than two dollars and fifty cents per acre when offered for sale.

That it was provided by an act of Congress of March 3rd, 1877, that the price to be paid for alternate reserved lands along the line of railroads within the limits granted by any act of Congress shall be two dollars and fifty per acre. That under and by virtue of said act of Congress of July 2nd, 1864, and joint resolution of May 31st, 1870, the land described in paragraphs II and III of said amended complaint were afterwards and prior to August 23rd, 1882, duly withdrawn by the Government of the United States from sale as offered lands, and that since said withdrawal the said lands have not been offered at public sale according to law, and that the said lands on the 23rd day of August, 1882, were subject to entry and purchase as timber lands under the act of Congress of June 3rd, 1878, referred to in the amended complaint.

IV.

For further answer and separate defense to the amended complaint this defendant says: He is informed and believes and he so alleges that before making application to purchase the lands mentioned and described in said paragraph II and III, and elsewhere in the amended complaint, the said David E. Budd was informed by the officers of the land office of the
48 United States at Vancouver that the lands in section twelve (12), township nine (9) north, of range one (1) west, of the Willamette meridian, were a part of the public domain of the United States which had not been offered at public sale according to law, and that the said David E. Budd, relying upon the information there obtained, did make application to purchase the southeast quarter of said section twelve, and did, on the 10th day of November, 1882, purchase the same under and in accordance with the act of June 3rd, 1878, and paid therefor at the rate of two dollars and fifty cents per acre, amounting in all to the sum of four hundred dollars, and received from the register of said land office the certificate of purchase No. 2033, mentioned in the amended complaint.

That said sum of money has not been returned or offered to the said David E. Budd, or to this defendant, or any part thereof, but that the plaintiff retains the whole thereof.

V.

For a further answer and separate defense to the matters alleged and set forth in said paragraphs II and III, this defendant alleges that on the 23rd day of August, 1882, and on the 10th day of November, 1882, the lands mentioned and described in said paragraph were subject to private entry and sale at two dollars and fifty cents per acre, and that on
49 said 10th day of November, 1882, the defendant, David E. Budd, entered and purchased said lands, at the land office of the United States at Vancouver, at two dollars and fifty cents per acre, and made payment therefor in full, and that thereupon the register of said land office

issued and delivered to the said David E. Budd the certificate of purchase No. 2033, mentioned in the amended complaint. That afterwards, on or about the 5th day of May, 1883, a patent from the United States was issued and delivered to the said David E. Budd, in pursuance of said certificate of purchase.

VI.

For answer to paragraph IV of the amended complaint this defendant denies that on the 23rd of August, 1882, or at any other time the whole or any part of the lands mentioned, described or designated in the amended complaint were agricultural lands of a superior or any quality or kind, having a clay soil or any good soil, gently sloping or rolling, or were agricultural lands at all of any kind or quality. Denies that said lands or any part thereof were or are now chiefly or at all valuable for agricultural purposes or were or are susceptible of tillage or cultivation or at the time alleged or any time were not chiefly valuable for timber or stone, and alleges that said lands were and now are valuable chiefly for timber and are unfit for cultivation.

50 Denies that defendant ever knew or had any knowledge that any of said lands were agricultural lands of any kind or quality, or at all valuable for agricultural purposes or susceptible of any kind of tillage or cultivation or having a good soil of any kind or otherwise.

VII.

For answer to paragraph 5 of the amended complaint, this defendant denies that on the 23rd day of August, 1882, or at any other time the said defendant and David E. Budd, pretending to be desirous of availing himself of the provisions of an act of Congress, entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and in Washington Territory," approved June 3rd, 1878, or otherwise, or at the instigation or in the interest of this defendant, J. B. Montgomery, unlawfully or fraudulently filed with the United States register of the land office at Vancouver, Washington Territory, the written statement referred to in said paragraph.

Denies that said Budd falsely or fraudulently set forth in said or any written statement in duplicate or otherwise, that the said lands or any part thereof were unfit for cultivation or valuable chiefly for its timber.

As to whether or not the said Budd in his said or any written statement falsely or fraudulently set forth that said land contained no improvements except for ditch or canal purposes, save such as were made by or belonged to said Budd, this defendant has no knowledge or information sufficient to form a belief, and, therefore denies the same. As

51 to whether or not the said Budd on the 23rd, day of August, 1882, or at any other time in said or any written statement unlawfully or fraudulently set forth that he, said Budd did not apply to purchase said land on speculation but in good faith to appropriate it to his own use and benefit exclusively, this defendant has no knowledge or information sufficient to form a belief and, therefore, denies the same.

As to whether or not the said Budd on said day or at any time in said or any written statement unlawfully or fraudulently set forth that he, said

Budd, had not directly or indirectly made any agreement or contract in any way or manner with any person whatever by which the title which he might acquire from the Government of the United should inure in whole or in part to the benefit of any person except himself, this defendant has no knowledge or information sufficient to form a belief, and therefore denies the same.

VIII.

For answer to the 6th paragraph in the amended complaint this defendant denies that all or any of the averments or declarations contained in said application were false or fraudulent, or that the said defendants or either of them knew or had any knowledge that all or any of said
52 averments or declarations were false or fraudulent in any particular. As to whether or not the said David E. Budd applied to purchase said lands or any part of them, as aforesaid, on speculation or not intending in good faith to appropriate said land or timber to his own exclusive use or benefit, this defendant has no knowledge or information sufficient to form belief, and therefore denies the same.

Denies that the said David E. Budd had theretofore unlawfully or fraudulently or otherwise made an agreement or contract with this defendant by which the title which the said Budd might acquire from the United States, should inure to the benefit of this defendant, and denies any contract or agreement whatever about said land was ever made between the said Budd and this defendant until after the said Budd had purchased and paid for the said lands and had received from the said register of said land office the certificate of purchase mentioned in said amended complaint. Denies that said lands were agricultural in character or fit for cultivation or valuable chiefly for agricultural purposes, or that said lands at said or any time was not valuable chiefly for its timber, but alleges that said lands at said time were, and still are, chiefly valuable for timber, and are unfit for cultivation. This defendant further says he is informed and believes that said David E. Budd applied to purchase and did purchase said lands in good faith to appropriate the same to his own exclusive use and
53 benefit, and did so appropriate the same. As to whether or not said lands at the time of the said application of said David E. Budd to purchase the same contained any improvements that did not belong to said Budd, either the log cabin mentioned in said paragraph or any land that had prior to said 23rd day of August, 1882, or since been cultivated or fenced in or a traveled road or highway called the McWiggin road, this defendant has no knowledge or information sufficient to form a belief, and therefore denies the same.

Denies that said cabin or improvements exclusive of said road at said time was worth one hundred dollars or upwards, or any sum, and this defendant alleges that he is informed and believes and alleges the fact to be that there was upon said lands a log cabin which was in no condition for habitation by a human, that said cabin had been abandoned, and that there had, prior to said 23rd day of August, 1882, been about two acres of said land somewhat cultivated and fenced in by fallen timber and brush, but the same had been abandoned long prior to said time and was not

under cultivation when the said Budd made his application to purchase, and that said cabin in its then condition was of no value whatever greater than ten dollars, and said other improvements were of no value, and said cabin was only worth the said sum of ten dollars by putting on an
54 additional outlay of fifty dollars on the cabin to make it habitable and without such additional outlay said improvements were worth nothing. Further answering, defendant alleges that, except said two acres the remainder of said lands were and are unfit for cultivation and valuable chiefly for timber.

IX.

For answer to paragraph VIII of the amended complaint, this defendant denied that upon the hearing of said application, or in furnishing evidence in support thereof, the said David E. Budd was acting in concert with or in behalf of this defendant as alleged in said paragraph VIII, or otherwise. Denies that the said Robert Rockwell and George F. White or either of them, upon said hearing in support of said application of said David E. Budd to purchase said lands, falsely or fraudulently testified that there were at the time of said hearing no improvements upon said lands not made by or belonging to said applicant, or that said lands were not fit for cultivation because it was cut up with ravines, broken or stony, or that said land was not chiefly valuable for timber, or that the surface of said land was too rough for cultivation, or said land was not fit for farming purposes.

Denies that all or any of the said testimony of said Robert Rockwell or George F. White was wilfully false or foresworn in any particular, denies that in truth or in fact at the time of said application, there
55 were improvements on said land of the value or character set forth in paragraph VI of the amended complaint.

Denies that in truth or in fact said land was fit for cultivation or was not cut up with ravines, nor broken nor stony so as to render its surface of said land was not too rough for cultivation, or said land was fit for cultivation suited for farming purposes. Denies that any alleged false or foresworn character of said testimony was well or at all known to this defendant.

X.

For answer to paragraph IX of the amended complaint the defendant says he is informed and believes that on the 10th day of November, 1882, the register of said land office permitted the said David E. Budd to enter said lands, and that the said David E. Budd then and there received from the said register of said land office the certificate of purchase No. 2033 set forth in said paragraph IX, but denies that the said testimony of the said witnesses or either of them was false, fraudulent, or foresworn in any particular or part, and denies that said register in permitting said entry or the register in issuing said certificate relied upon any false, fraudulent, or foresworn testimony to be true.

XI.

For answer to paragraph 10 of the said amended complaint defendant says that the papers and testimony in said case or application were, as he is informed and believes, transmitted to the General Land Office as alleged.

56 XII.

For answer to paragraph XI of said amended complaint defendant says he is informed and believes that on or about the 5th day of May, 1883, plaintiff through the proper officers, pursuant to said certificate, gave and granted to the defendant David E. Budd, his heirs and assigns, by patent, the lands described in said certificate and the amended complaint, but denies that in doing so the plaintiff or its said officers relied upon any false or fraudulent testimony, or upon a false or fraudulent application to purchase said lands or any part thereof.

XIII.

For answer to paragraph XII of said amended complaint this defendant admits the execution and delivery to him by said defendant Budd of the warranty deed in said paragraph mentioned, but denies that said deed was so executed or delivered in pursuance of any fraudulent agreement or contract, or in pursuance of any agreement or contract or understanding entered into prior to the time said Budd had paid for said land and received the certificate therefor mentioned in the said amended complaint; and defendant denies that he now or ever did falsely assert title in fee or otherwise to said land, or falsely or fraudulently claim to be entitled to the possession thereof; but he avers that said deed was so executed and delivered to him by said Budd, and was received by de-
57 fendant in pursuance of an agreement entered into between them in good faith long after the said certificate had been issued and delivered to said Budd, and not otherwise, and the defendant now claims and owns said land in good faith by virtue of said certificate and said deed.

XIV.

And for answer to paragraph XIII of said amended complaint this defendant denies that all or any of the actions or doings of the defendants or either of them, as alleged and set forth in said amended complaint or otherwise, are or were contrary to equity or good conscience or tend to the manifest or any wrong or injury or oppression of plaintiff.

Wherefore defendant prays that plaintiff's said bill of complaint herein be dismissed with costs against the plaintiff and for such other and further order, decree, and judgment as may be just and proper in the premises.

B. F. DENNISON and RALEIGH STOTT,
Attorneys for Defendant James B. Montgomery.

UNITED STATES OF AMERICA,
Territory of Washington, County of Clarke, ss:

J. B. Montgomery, being first duly sworn, says that he is one of the defendants in the above-entitled suit, that he has read the foregoing an-

swer and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters therein stated on information
58 and belief, and as to those matters he believes it to be true.

J. B. MONTGOMERY.

Subscribed and sworn to before me this 17th day of February, 1888.

[L. S.] A. REEVES AYRES, *Clerk.*
By W. H. JOHNSON, *Deputy.*

Endorsed and filed Feb. 17, 1888. A. Reeves Ayres, clerk, by W. H. Johnson, deputy.

Answer of defendant David E. Budd.

THE UNITED STATES OF AMERICA, plaintiff, *vs.* DAVID E. BUDD AND J. B. MONTGOMERY, defendants. } In equity. No. 1813.

To the judge of the above-entitled court:

David E. Budd, one of the defendants in the above-entitled suit, still insisting that the amended bill of complaint does not state facts sufficient to constitute a cause of suit or any ground for equitable relief, makes this amended answer to said amended complaint as follows:

I.

For answer to paragraphs II and III of said complaint this defendant denies that the lands described in said paragraph II, and referred to in said paragraph III, were on the 23rd day of August, 1882, offered
59 lands or lands which had been offered at public sale according to law, and denies that the defendants or either of them ever knew or had any knowledge that said lands were ever offered at any time at public sale by the Government of the United States, and as to whether or not said lands or any of them or any part thereof were ever offered at public sale by said Government according to law this defendant has no knowledge or information sufficient to form a belief, and therefore denies the same.

As to whether or not any of said lands were during all or any of the times mentioned in the said amended complaint or at any other time were subject to entry or settlement under the preëmption or homestead laws of the United States, this defendant has no knowledge or information sufficient to form a belief and therefore he denies the same. Denies that this defendant ever knew or had any knowledge that said lands or any part thereof had been offered at public sale according to law by the Government of the United States or were ever subject to entry or settlement under the preëmption or homestead laws of the United States.

II.

Defendant for further and separate answer and defense to the matters set forth in paragraphs II and III of said amended complaint, this defendant alleges that the Congress of the United States passed an
60 act approved July 2nd, 1864, and the joint resolutions supplemental thereto and amendatory thereof, approved April 10th, 1869,

and May 31st, 1870, entitled respectively "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound on the Pacific coast by the northern route." "Joint resolution granting right of way for the construction of a railroad from a point at or near Portland, Oregon, to a point west of the Cascade Mountains in Washington Territory."

And joint resolution authorizing the Northern Pacific Railroad Company to issue its bonds for the construction of its road and to secure the same by mortgage and for other purposes."

That by said act of Congress and said joint resolution of May 31st, 1870, there was granted to said Northern Pacific Railroad Company, for the purpose of aiding in its construction of its said line from Portland in the State of Oregon to Puget Sound in Washington Territory, every alternate section of public land designated by odd numbers to the amount of twenty alternate sections per mile on each side of the line of said railroad as the same should be adopted by said company of said railroad through the Territory of Washington from Portland, in the State of Oregon, to Puget Sound and opposite to the lands described in said paragraphs II and III of the amended complaint, which are within the limits of said

61 grant was fixed by said company on the 13th day of August, 1870, and a map and plat thereof was on said day filed with the Secretary of the Interior in the office of the Commissioner of the General Land Office of the United States. That on the 13th day of September, 1873, the said line of said railroad between said points was definitely fixed and located in Washington Territory, opposite to said lands, showing the said definite location by a map of said line of said railroad being on said day filed with the Secretary of the Interior in the office of the Commissioner of the General Land Office of the United States. That said railroad was fully constructed as definitely located by said company along and opposite to said lands described in said paragraphs II and III of the amended complaint within the time required by said act of Congress and joint resolution and long prior to August 23rd, 1882, and the same was approved and accepted by the President of the United States long prior to said date.

That said act of Congress of July 2nd, 1864, and joint resolution of May 31st, 1870, provided that the reserved alternate sections within the limits of said grant should not be sold by the Government of the United States at a price less than two dollars and fifty cents per acre when offered for sale.

That it was provided by an act of Congress of March 3rd, 1877,

62 that the price to be paid for alternate sections reserved lands along the line should be two dollars and fifty cents per acre.

That under and by virtue of said act of Congress of July 2nd, 1864, and joint resolution of May 31st, 1870, the said lands described in the said paragraphs II and III of the amended complaint were prior to August 23rd, 1882, duly withdrawn from sale as offered lands by the Government of the United States, and since said withdrawal the said lands have not been offered at public sale according to law, and said lands on the 23rd day of August, 1882, were subject to entry and purchase as timber land under the act of Congress of June 3rd, 1878, referred to in the amended complaint.

III.

For a further and separate answer and defense to the matter alleged and set forth in said paragraphs II and III; this defendant alleges that on the 23rd day of August, 1882, and on the 10th day of November, 1882, the lands mentioned and described in said paragraphs were subject to private entry and sale at two dollars and fifty cents per acre, and that on said 10th day of November, 1882, this defendant entered and purchased said lands at the land office of the United States at Vancouver at two dollars and fifty cents per acre, and made payment therefor in full, and that thereupon
63 the register of the said land office issued and delivered to this defendant a certificate of purchase No. 2033, mentioned in the amended complaint. That afterwards, on or about the 6th day of May, 1883, a patent from the United States was issued and delivered to this defendant in pursuance of said certificate.

The amount paid, four hundred dollars, has not been returned or offered to be repaid.

IV.

For answer to paragraph IV of the amended complaint the defendant denies that said lands, or the whole, or any part thereof, during all or any of the times mentioned in the amended complaint, were or now are agricultural lands of a superior or other kind or quality having a good clay loam soil with the surface thereof, or any kind of good soil, or was or are gently rolling, but alleges that said lands are steep and broken in many and most places.

Denies that said lands, or any part thereof, at the time aforesaid, or at any time, were or now are valuable chiefly for agricultural purposes, or were or are susceptible of tillage or cultivation in grain, vegetables, or other agricultural products. Denies that the said lands were not at the time alleged, or at any time, or are not now, chiefly valuable for timber or stone.

Denies that defendant ever well knew or had any knowledge that said lands were agricultural lands or not, chiefly valuable for timber,
64 or were susceptible of tillage or cultivation, or were agricultural of any kind or quality. Denies that this defendant ever knew or had any knowledge of the matters alleged in the said paragraph IV of amended complaint.

V.

For answer to paragraph V of the amended complaint this defendant denies that on the 23d day of August, 1882, or at any other time, he, at the instigation or in the interest of the defendant, J. B. Montgomery, or any other person or persons, or otherwise unlawfully or fraudulently filed with the United States register of the Land Office at Vancouver, Washington Territory, any written statement, as alleged in said paragraph or otherwise, and denies that in the said written statement filed with the said register he falsely or fraudulently set forth that said lands were unfit for cultivation or valuable chiefly for its timber or that they contained no improvements, except for ditch or canal purposes, save such as were made

by or belonged to defendant. He denies that he, in said written statement, falsely or fraudulently set forth that he did not apply to purchase said land on speculation, but in good faith, to appropriate it to his own exclusive use or benefit. He denies that he falsely or fraudulently set forth in said written statement that he had not directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whatever by which the title which he might acquire from
65 the Government of the United States should inure in whole or in part to the benefit of any person except himself, and the defendant alleges that each and all of the matters set forth in said written statement or statements made by him in said application to purchase said lands were true and were made in good faith, without any fraudulent design or purpose whatever.

VI.

For answer to Paragraph VI of the amended complaint the defendant denies that all or any of the averments or declarations contained in said written application were false or fraudulent, or that he ever well knew or had any knowledge that any or all of the said averments or declarations in said written application were false or fraudulent in any particular. Denies that in truth or in fact this defendant applied to purchase said lands as aforesaid, or otherwise, or any part thereof, on speculation or not, intending in good faith to appropriate said land or said timber to his own exclusive use or benefit.

Denies that this defendant had theretofore or ever unlawfully or fraudulently made any agreement or contract with the defendant, J. B. Montgomery, or any other person by which the title which this defendant might acquire from the Government of the United States should inure to the benefit of said Montgomery or any other person.

Denies that this defendant ever made any agreement or contract
66 about said land with the said Montgomery or any other person until after this defendant had purchased and paid for the said land, and had received from the said register of said land office the certificate mentioned in the amended complaint. The defendant denies that the said lands or any part thereof were or are agricultural in character or fit for cultivation, or valuable chiefly for agricultural purposes, or that the said land at said or any time were or are not chiefly valuable for its timber, but allege that said lands are valuable chiefly for timber, and unfit for cultivation. Denies that said lands contained, at the time of said application to purchase them, any improvements which did not belong to this defendant, that was of any value. He admits that there was on said land at said time of said application to purchase, an old log cabin, which did not belong to him, but says that the said cabin did not belong to any one other than the Government of the United States, and had been long since abandoned and suffered to decay, and was in a condition that it could not be used, and was unfit for habitation for a human being. He admits that prior to said 23rd day of August, 1882, about two acres of said land had been fenced in by fallen trees and brush, and had been somewhat cultivated, but denies that at said time of said application the land, or any part thereof, was or had been for a long time prior thereto under cultiva-

tion, and avers, except said two acres or less, the remainder of said tract of land was and is unfit for cultivation, and is valuable chiefly for
67 timber thereon. Denies that the improvements exclusive or inclusive of said road on said land at the time of said application to purchase were worth the sum of $100.00, or any sum greater than $10.00, and said improvements were worth said last-mentioned sum only by putting on additional outlay of not less than fifty dollars on said cabin in labor to make it habitable, and that without such additional outlay the said improvements were worth nothing.

Denies that any of said land on the said 23rd day of August, 1882, was or has been since or had been for a long time prior thereto, cultivated in any way. Denies that on said 23rd day of August, 1882, or for a long time prior thereto, said cabin was in a good serviceable condition or in such a condition as to be of any use or value.

VII.

For answer to paragraph VII of the complaint, defendant admits that proceedings in the matter of his application to purchase said lands were had and that on or about the 10th day of November, 1882, testimony was taken in said matter before the register of the land office at Vancouver.

VIII.

For answer to paragraph VIII of the amended complaint, defendant denies that upon or in the said hearing of his application he was acting in concert with or on behalf of the defendant J. B. Montgomery, and
68 denies that he was so acting in producing evidence that said lands were of the character contemplated in said act of Congress, or that said land was unoccupied or without improvements other than the said act contemplated, either mining or agricultural or in any other manner or for any purpose.

Denies that this defendant acted in concert with or in the interest of J. B. Montgomery or any other person than himself or fraudulently procured or produced before said register of said land office the evidence of Robert Rockwell and George F. White, or either of them, in support of his said application or that both or either of them, fraudulently or falsely, testified falsely in support of said application in the particulars specified in the complaint or in any particular or particulars.

Denies that said Rockwell or White testified falsely or fraudulently at said hearing in support of said application, that there were at the time of said hearing no improvements upon said lands not made by or belonging to said applicant or that said land was not fit for cultivation because it was cut up by ravines, broken or stony, or that said land was chiefly valuable for timber or that the surface was too rough for cultivation, or said land was unfit for farming purposes. Denies that all or any of the said testimony given in support of said application by said Rockwell or said White was false or foresworn in any particular. Denies that in truth
69 or in fact at the time of said application there were improvements on said land of the value or character set forth in paragraph VI of the amended complaint or any value or character except such as hereinbefore set forth in paragraph VI of this answer.

Denies that in truth or in fact said land was fit for cultivation, or was not chiefly valuable for timber, or was not cut up by ravines, nor broken, nor stony, so as to render it unfit for cultivation, or the surface of said land was not too rough for cultivation, or said land was fit or suited for farming purposes of any kind.

Denies that any alleged or any false or foresworn character of said testimony, as alleged in the amended complaint, was well or at all known to these defendants or either of them.

IX.

For answer to paragraph IX of the amended complaint defendant admits that on or about November 10th, 1882, the register of said land office permitted this defendant to enter said land, and that the defendant then and there received from the said register of said land office the certificate mentioned and described in paragraph IX of the amended complaint, but denies that the said testimony of said witnesses or either of them, or any part thereof upon which the said register relied in permitting said entry or in issuing said certificate, was false or fraudulent or foresworn testimony in any particular.

70

X.

For answer to paragraph X of the amended complaint, defendant says that he is informed and believes, and so states, that afterwards the papers and testimony in said case or application were transmitted by the proper officers of the land office at Vancouver to the General Land Office at Washington city, in the District of Columbia, as alleged.

XI.

For answer to paragraph XI of the amended complaint, alleges that on or about the 5th day of May, 1883, plaintiff, through the proper officers, pursuant to said certificate, gave and granted to this defendant, David E. Budd, his heirs and assigns by patent, executed in due form, the lands described in said certificate and in the amended complaint, which said patent was duly delivered to this defendant. Defendant denies that the plaintiff or its said officers relied upon any false or fraudulent application to purchase, being true in so granting said lands or executing or delivering said patent to this defendant.

XII.

For answer to paragraph XII of the amended complaint, defendant says it is true that on or about the 4th day of December, 1882, after he had purchased and paid for said lands and received the certificate of purchase as aforesaid, he did execute and deliver to the defendant J. B.

71 Montgomery a warranty deed of said land, which deed was afterwards recorded as alleged. But this defendant denies that said deed was executed, signed, sealed, or delivered in pursuance of any agreement or contract, fraudulent or otherwise, entered into by or between this defendant and J. B. Montgomery, prior to the time when this defendant

purchased and paid for said lands and had received the certificate of purchase hereinbefore mentioned. Defendant denies that he unlawfully or fraudulently signed, sealed, executed, or delivered said deed, or any deed to the said lands, to the said Montgomery or to any other person, and denies that the said J. B. Montgomery falsely or fraudulently asserts title in fee or otherwise to said land or any part thereof, or claims right of possession thereof.

XIII.

Defendant, for answer to paragraph XIII of the amended complaint, denies that any of the acts or things done by the defendant or either of them in the premises were or are contrary to equity or good conscience or in any manner tend to the injury, wrong, or oppression of the plaintiff.

Wherefore defendant prays the plaintiff's said complaint be dismissed with costs against the plaintiff and for such other order, decree, and judgment as may seem just and proper in the premises.

B. F. DENNISON and RALEIGH STOTT,
Attorneys for D. E. Budd.

72 UNITED STATES OF AMERICA,
State of Oregon, County of Multnomah, ss:

I, David E. Budd, being duly sworn, say I am one of the defendants in the above-entitled suit, that I have read the foregoing answer and know the contents thereof, and that the same are true of my own knowledge, except as to those matters therein stated on information and belief, and as to those matters I believe it to be true.

D. E. BUDD.

Subscribed and sworn to before me this 16th day of February, 1888.
[S. L.] EUGENE WHITE,
Commissioner of Deeds for Washington Territory.

Endorsed and filed Feb. 17, 1888. A. Reeves Ayres, clerk, by W. H. Johnson, deputy.

Reply to amended answer of David E. Budd.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD & J. B. MONTGOMERY, DEFENDANTS. } No. 1813.

Plaintiff, for reply to the amended answer of David E. Budd to the amended complaint herein, says:

73 I.

For reply to allegation in paragraph 2 in said amended answer, plaintiff denies that on August 23rd, 1882, or at any time said lands were subject to entry and purchase as timber land under the said act of Congress of June 3rd, 1878.

II.

For reply to paragraph 3 of said amended answer, denies each and every allegation thereof, except the delivery of the certificate and the issuance and delivery of the patent, and that the amount paid for said land, viz, $400.00, has not been repaid or offered to be repaid, all of which plaintiff admits.

III.

For reply to paragraph 5 of said amended answer, denies that each and all of the matters set forth in said written statement and statements made by said David E. Budd in said ap/lication to purchase said lands were true or were made in good faith without any fraudulent design or purpose, and denies each and every of said affirmative allegations as contained and pleaded in said paragraph five (5).

IV.

For reply to paragraph 6 of said amended answer, denies each and every affirmative allegation contained in said paragraph 6 (six).

74 Wherefore plaintiff prays judgment as prayed in the amended complaint herein.

W. H. WHITE,
U. S. Attorney, Washington Territory.

Endorsed and filed February 27th, 1888. A. Reeves Ayres, clerk, by W. H. Johnson, deputy.

Reply to amended answer of J. B. Montgomery.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD & J. B. MONTGOMERY, DEFENDANTS. } 1813.

Plaintiff, for reply to the amended answer of J. B. Montgomery to the amended complaint herein, says:

I.

It denies that the said lands or any part thereof were, on August 23rd, 1882, or at any time, subject to entry and purchase as timber lands under said act of Congress of June 3rd, 1878, as alleged in paragraph III of said amended answer.

II.

It denies each and every allegation contained in paragraph 4 of said amended answer, except that said David E. Budd paid for said

75 land as alleged therein, and received certificate of purchase, and that said sum of $400.00 has not been returned to defendants or either of them.

III.

It denies that said lands were, on August 23rd, 1882, or at any time, subject to private entry, as alleged in paragraph V of said amended answer, or were subject to entry at all, except under the homestead and pre-emption laws.

IV.

It denies that said lands were or now are valuable chiefly for timber, and denies that said lands are unfit for cultivation, as alleged in paragraph VI of said amended answer and in paragraph VIII thereof, and denies each and every affirmative allegation contained in said paragraph VIII.

V.

It denies each and every affirmative allegation contained in paragraph XIII of said amended answer, except that said defendant J. B. Montgomery now claims to own said land by virtue of said certificate and said deed.

Wherefore plaintiff prays judgment as heretofore prayed in the amended complaint herein.

W. H. WHITE,
U. S. Attorney for Wash. Ter.

Endorsed and filed February 27, 1888. A. Reeves Ayres, clerk, by W. H. Johnson, deputy.

76 *Notice of appeal.*

UNITED STATES OF AMERICA,
Territory of Washington, ss:

I, T. J. Hamilton, United States marshal for Washington Territory, do hereby certify that I received the annexed notice of appeal for service on the 21st (?) day of March, 1889, and that I personally served the same on the 3rd day of April, 1889, at Clarke County, Washington Territory, on B. F. Dennison, esq., named therein, and one of the attorneys for the defendants in the action entitled therein, by delivering to and leaving with said B. F. Dennison, personally, in said county, on said last-named day, a true and correct copy of said notice of appeal.

Dated at Seattle, Wash. Ter., this —— day of April, 1889.

T. J. HAMILTON,
United States Marshal for Wash. Ter.

THE UNITED STATES OF AMERICA, PLAINTIFF;
vs.
DAVID E. BUDD AND J. B. MONTGOMERY, defendants.
No. 1813.

To the clerk of said district court, and to said defendants, and to each of them, and to B. F. Dennison, esq., their attorneys:

77 You and each of you are hereby notified that the plaintiff in the above-entitled action hereby appeals to the supreme court of

Washington Territory from that certain judgment and decree made and entered in the above-entitled action in the above-entitled district court on the 15th day of November, A. D. 1888, in the words following, to wit:

This cause coming on to be heard on this 15th of November, 1888, upon the issues joined herein, and proofs and evidence herein heretofore taken in open court and submitted, the plaintiff appearing by W. H. White, its attorney, and the defendants by B. F. Dennison and Raleigh Stott, their attorneys, after argument by the said attorneys for their respective parties, and the court having fully considered the allegations, proofs, and arguments, and being fully advised in the premises, it is ordered and adjudged and decreed that this action be and the same is hereby dismissed.

To which decree the plaintiff excepts and the exception is allowed.

FRANK ALLYN,
Judge.

And you, the said clerk, are hereby directed to transmit to said Supreme Court a transcript of all the record in said cause, together with the pleadings and all evidence taken in said cause.

WILLIAM H. WHITE,
United States Attorney for Wash. Ter. and Atty. for Plff.

Endorsed and filed April 8, 1889. A. Reeves Ayres, clerk, by W. H. Johnson, deputy.

78 THE UNITED STATES
vs.
DAVID E. BUDD.

This cause came on for hearing this day before the court, and the same proceeded by hearing the testimony heretofore taken and reported by John W. Cochran, stenographer.

Endorsed and filed Nov. 12th, 1888. A. Reeves Ayres, clerk, by W. H. Johnson, deputy.

UNITED STATES
vs.
D. E. BUDD. } No. 1813.

Now, on this 13th day of November, this cause coming on for hearing, he proceeds by reading of the testimony.

Endorsed and filed Nov. 13th, 1888.

TERRITORY OF WASHINGTON,
County of Cowlitz, set.:

The affidavit, C. N. Hogan, first duly sworn, states that he has for ten years lived in vicinity of tract of land which David Budd undertook to take up under timber act in Cowlitz County, viz, the southeast quarter of section 12, township nine, range one west, and once examined it thoroughly, and therefore is well acquainted, and that it is all good agricultural
79 land, and contains a prairie of fifteen acres, part of which has been in cultivation and has a cabin on it and about four acres fenced.

These improvements were made before it was taken up by Budd. It was well watered, is quite a start towards a good farm now, and would make a fine one with further improvements.

(Signed) CHARLES N. HOGAN.

Subscribed and sworn to before me, Charles N. Hogan, the 7th Sept., 1885.

(Signed) J. A. MUNDAY,
S. A., G. L. O.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

Charles N. Hogan, being first duly sworn, says that he is a resident of Cowlitz County, Wash. Ter., and that he is well acquainted with the following-described land: SE. ¼ section 12, town (?) 9 north, of range 1 west, Will. Mer. in Cowlitz County, Wash. Ter., says that he has run the entire lines of said land for different parties and at different times since 1876; that there is an open prairie of fully 20 acres, mostly on the NW. forty of the above-described land, that is ready for the plow, and that some two acres of said prairie has been fenced and cultivated, a log cabin
80 12x14 feet has been erected on this land, balance of land covered with fir and cedar trees, vine, maple, and cherry underbrush, surface gently rolling, good clay loam soil, several nice streams of water running across this land. This is better land than farms in cultivation in the near vicinity. All can be plowed of this land after timber is removed.

(Signed) CHARLES N. HOGAN.

Sworn and subscribed to before me this 28th day of January, 1884.

(Signed) S. P. C. STUBBS,
Special Agent, G. L. O.

In the district court holding terms at Vancouver.

To the clerk of said court:

You will please issue subpœnas for the following witnesses on the part of the United States to appear forthwith:

Name.	Residence
Edward Simpson (?)	Portland, Oregon.
Wm. D. O. Regan	" "
Edward W. Smith	" "
Christian Hofstetten	" "
Alex. A. Kadderly	East Portland, Or.

Consul Wood, Clatsup City, Or., North Shore Packing Co.

(Address care Weber & Medcalf.)

81

Name.	Residence.
E. J. Searle, Silver Lake, W. T.	Cowlitz City.
Wm. Wetitye, Sightly, P. O. W. T.	

W. H. WAITE,
U. S. Attorney.

Endorsed and filed April 3rd, 1888.

Final decree.

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND J. B. MONTGOMERY, DEFENDANTS. } In equity. No. 1813.

This cause coming on to be heard on this 15th of November, 1888, upon the issues joined herein and proofs and evidence herein heretofore taken in open court and submitted, the plaintiff appearing by W. H. White, its attorney, and the defendants by B. F. Dennison and Raleigh Scott, their attorneys, after argument by the said attorneys for their respective parties, and the court having fully considered the allegations, proofs, and arguments, and being fully advised in the premises, it is ordered and judged and decreed that this action be and the same is hereby dismissed. To which decree the plaintiff excepts and the exception is allowed.

FRANK ALLYN, *Judge.*

Endorsed and filed November 15th, 1888.

82 United States of America, in the second judicial district of Washington Territory, holding terms at Vancouver, Clarke County.

TERRITORY OF WASHINGTON,
County of Clarke, ss:

I, A. Reeves Ayres, clerk of district court of the second judicial district, do hereby certify that the above and foregoing is a full, true, and correct transcript of the pleadings, orders, rulings, and decrees of court, and the whole thereof, as the same appears on file and of record in said court in said cause.

In witness whereof, I have hereunto set my hand and affixed the seal of said court this 22nd day of October, A. D. 1889.

[SEAL.] A. REEVES AYRES, *Clerk.*
By W. H. JOHNSON, *Deputy.*

(14,628 words in transcript.)

83 TERRITORY OF WASHINGTON,
County of Clarke, ss:

In the distrtct court of Washington Territory, holding terms at Vancouver.

I, Frank Allyn, judge of said court, do hereby certify that cause No. 1813, in the said court, holding terms at Vancouver, entitled:

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD & J. B. MONTGOMERY, DEFENDANTS, } 1813.

was tried, heard, and determined in said court at the November term thereof, A. D. 1888, and that in said trial witnesses were examined in open court for the plaintiff and defendant, and that the evidence of all said

witnesses as given on the trial were by direction of the court reduced to writing, and that the evidence of said witnesses so reduced to writing, together with the exhibits introduced by the respective parties, are hereto attached, and that the said evidence reduced to writing aforesaid, and the said exhibits is the evidence and all the evidence introdceed by the parties plaintiff and defendants in the trial of said cause, and is the evi-
84, 85 dence and proofs upon which said action was tried, heard, and determined. I, in testimony whereof, I have hereunto set my hand and this 23rd day of November, A. D. 1888, in open court.

FRANK ALLYN,
Judge of the District Court of the Second Judicial District of Washington Territory.

TERRITORY OF WASHINGTON,
County of Clarke, ss:

I, A. Reeves Ayres, clerk of the district court for the second judical district of Washington Territory, holding terms at Vancouver, do hereby certify that the evidence hereto attached is the evidence and all the evidence and exhibits introduced by the plaintiff and defendants in cause No. 1813, entitled The United States of America, plaintiff, vs. David E. Budd and J. B. Montgomery, defendants, 1813, tried, heard, and determined in said court at the November term thereof, A. D. 1888, on the trial of said action.

In testimony whereof I have hereunto set my hand and seal of said court this 23rd day of November, A. D. 1888.

[SEAL.] A. REEVES AYRES,
Clerk.

(Endorsed: Certificate of judge and clerk.

86 United States circuit court, western division, district of Washington.

UNITED SATES OF AMERICA, *vs.* DAVID E. BUDD AND J. B. MONTGOMERY, } Opinion. Filed Aug. 20, 1890.

Syllabus by the court:

1. Equity—Patent—Cancellation—Purchase money:

When the Government of the United States applies for equitable relief it must, like an individual suitor, do equity on its part.

In a suit to cancel a patent for land on the ground of error in issuing it, when the patentee is not guilty of fraud it is essential for the Government to return the purchase money to the patentee.

2. Offered lands—Act of June 3, 1878—Construction:

Within the meaning of the act of June 3rd, 1878, providing for the sale of timber lands in California and other Pacific coast States, lands which had been offered at public sale, but not sold by the United States, and which were thereafter withdrawn from sale because situated within the limits of the land grant to the N. P. R. R. Co., belong to the class of unoffered lands, and may be lawfully sold as timber lands under said act.

3. Same. Timber land.

The hilly, stony land, covered with fir and cedar forest trees,
87 common in the western part of the State, are chiefly valuable for timber and unfit for cultivation within the meaning of said act, although the soil is not barren, and may be made to yield good crops after removal of the timber and stumps. The true interpretation of the act does not require the substitution of the word "solely" for the word "chiefly," nor do the words "unfit for cultivation" mean not capable of being made fit for cultivation.

4. Same. Improvements.

The word "improvements," as used in said act, means valuable improvements. An abandoned and dilapidated cabin and remnant of an abandoned fence, which are of no use, are not such improvements.

5. Fraud. Insufficient evidence.

The fact of a patentee of the United States having conveyed the land within one month after entering it in the land office and prior to the issuance of his patent to a vendee, who, at about the time of said transaction, also purchased other lands from a number of persons who within a recent period entered the lands so conveyed by them respectively under the laws of the United States, is not a circumstance from which an inference, much less a conclusion, can be fairly drawn that there was an engagement between said patentee and his said vendee, made prior to the entry, whereby the title to be acquired should inure to the latter; and that there being no evidence tending to connect said patentee with any conspiracy, no interference unfavorable to him can be drawn from
88 evidence tending to prove that his vendee had received conveyances or other land from other persons made pursuant to agreements antedating entry of the lands.

6. Same.

A purchaser from the United States under the act above referred to is not required to retain the land. After perfecting his right to in *in* good faith the jus disponendi immediately becomes vested in him; and in a suit to cancel a patent on the ground of fraud, without evidence of fraud on the part of the patentee, other than as above indicated, the prayer of the bill will be denied.

Statement of the case.

The defendant, David E. Budd, acquired title by a patent from the United States to a tract of land described as *th* the SE. ¼ of sec. 12, To. 9 N., R. 1 W., Willamette meridian, and situated in Cowlitz County, in this State, and by direction of the Attorney-General, this suit to cancel said patent was commenced in the district court of the second judicial district of Washington Territory, holding terms at Vancouver, in which court the issues were made up, a trial was had, and a decree for the defendant was rendered. The cause was then removed by an appeal to the supreme court of the Territory of Washington, and was pending in the last-mentioned court and undetermined at the time of the admission of the State of Washington into the Union, whereby it was transferred to this court.

89 The testimony introduced upon the trial in the Territorial district court was stenographically reported and, together with all the exhibits and documentary evidence, has been duly certified and is now on file in this court.

It is assumed by the court, because connected by all the parties, that the case is now properly before the court for trial de nouo upon the testimony and proofs appearing in the record precisely the same as it would have been in the supreme court of the Territory of the existence of the court had continued long enough for a hearing to have been had and a decision of the case to have been rendered therein.

The patent which the Government is here asking the court to cancel was issued under the provisions of the act of June 3rd, 1878, providing for the sale of timber lands in California, Nevada, Oregon, and in Washington Territory (Supplement R. S., 328). The first three sections of this act contain the provisions which are of importance in this case. They are as follows: Section 1. That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for the timber but unfit for cultivation, and which have not been offered at public sale, according to law, may be sold to citizens of the United States, or persons who have declared their intentions to become such, in quantities not exceeding one hundred and

90 sixty acres to any person or *or* association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: Provided, That nothing herein contained shall defeat or impair any bona fide claim under any law of the United States, or any bona fide claim under any law of the United States, or author the sale of any mining claim, or the improvements of any bona fide settler, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes.

And provided further, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled I. "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act, and all patents shall be vested to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights as may have been acquired under and by the provisions of said act, and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land-Office, designating by legal subdivisions the particular tract of land he de-

91 sires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited, contains no mining or other improvements, except for ditch or canal purposes where any such do exist, save such as are made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit;

and that he has not, directly or indirectly, made any agreement or contract in any way or manner with any person or persons whatsoever by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office within the district wherein the land is situated. And if any person taking such oath shall swear falsely in the premises he shall be subject to all the pains and penalties of perjury and shall forfeit the money which he has paid for said lands and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, shall be null and void.

SEC. 3. That upon the filing of such statement, as provided in
92 the second section of this act, the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions of his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time, and after the expiration of the said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required.

Secondly. That the land is of the character contemplated in this act, unoccupied, and without improvements other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver cinnabar, copper, or coal. And upon payment to the proper officer of the purchase money of said land, together with the fees of the register and the receiver, as provided for the use of mining claims in the twelfth section (2) of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and on the transmission to the central Land Office of the papers and testimony in the case, a patent shall issue thereon: Provided, That any
93 person having a valid claim to any portion of the land may object in writing to the issuance of a patent to the lands so held by him, stating the nature of his claim thereto, and evidence shall be taken and the merits of said objection shall be determined by the officers of the land office, subject to appeal as in other cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office."

An examination of this statute shows that it was framed with great care, and that Congress intended by its own provisions and the regulations which it authorizes the Secretary of the Interior to make to ensure such publicity of all proceedings and such delays and opportunities for investigation and deliberation as to render frauds and evasions of its provisions certain to exposure before the acquisition of title to any tract of land could be finally completed under it by the issuance of a patent. It was after the affidavit required by the second section of the act had been made and filed by the defendant, Budd, and after he had given the notice, furnished the proofs, made the payments, and suffered the delays required by the act, that the officers of the Government issued to him this patent as evidence of a complete and perfect title.

This court has the right and it is its duty to undo what has been done by the executive branch of the Government by decreeing a cancel-
94 lation of this solemn instrument, subscribed as it is by the name of the President, if sufficient grounds for doing so are shown to exist, but only for good and sufficient reasons distinctly alleged and clearly proven. The alleged grounds for cancelling this patent are as follows:

1. The land had been at a time prior to the date of the statute offered for sale; therefore the patent was issued unlawfully, and this statute only authorizes the sale of land which had not been prior to its passage offered for sale.

2. The land is not of the description which can be disposed of under this act, because not chiefly valuable for timber or stone, and unfit for cultivation, but is valuable for agricultural purposes. And the defendant Budd, in making his proof in the land office, procured the giving of false testimony as to the character of the land in this respect.

3. The land was not subject to sale under this statute, because at the time of Budd's application to enter it there were valuable improvements upon it not made by him, and he was guilty of procuring false testimony in this particular.

4. The defendant Budd, before he applied to purchase the land, had made an agreement with his codefendant, Montgomery, to transfer to the latter the title which he should obtain, and he did not apply to purchase the land for his own use, and the affidavit which he made to the
95 effect that he had not made any agreement or contract whereby the title which he should obtain should enure directly to any person or persons other than himself was in these particulars false and foresworn.

It is a conceded fact that the township containing the particular quarter section of land now in dispute was surveyed by the Government in 1863, and all said township not claimed by actual settlers and filed upon was thereafter offered at public sale under the land laws of the United States, and remained as offered land, subject to private entry at the minimum price of $1.25 per acre, until the 13th day of August, 1870, at which time it was withdrawn from sale in consequence of being situated within the limits of the grant to the Northern Pacific Railroad Company. It is also a conceded fact that a small portion of this particular quarter section, to wit, about fifteen or twenty acres, is prairie and all the balance of it is forest, being covered with fir, cedar, and hemlock timber and undergrowth of vine maple, sallal bushes, and all the various shrubs and plants usually found in the forests of the western part of this State, and it is further conceded that at a time prior to the application to purchase this land by the defendant Budd it had been settled upon by a man named Doherty, who constructed a small cabin for his habitation and made some attempt
96 to cultivate the small prairie above referred to. And the record shows that it is conceded that Budd's application to enter this land was made on the 23rd day of August, 1882, and he made his proofs and paid for the land, and a receiver's receipt was issued to him of the 10th day of November, 1882, and that on the 8th day of December, 1882, he executed and delivered a deed of the land to the defendant Montgomery, and the patent conveying the patent to Budd was issued on the 5th day of May, 1883.

I have now stated the premises from which the necessary conclusions of fact and law are to be reached which shall determine the rights of the parties here involved, and will now proceed to consider severally and in the order above set forth the several grounds upon which the court is asked to do equity and as a matter of justice proceed to cancel this patent. In considering the merits of the first of the several grounds for cancelling the patent, it is important to keep in mind that this is not likeyl a proceeding to re'cind a contract; the Government had not offered to return the money received for the land, and while it seeks to be restored to its original title and possession, it does not pray to have the parties on both sides placed in the position which they occupied before its officers and agents granted Budd's application to enter the land under this statute and accepted his money. The case is prosecuted to secure an absolute forfeiture of all the defendants' interests in the land as well as the money which
97 they paid for it, and proceeded under the theory that whatever is illegal and wrong in the transaction is chargeable solely to the defendants. Now, if all that is claimed by the Government as constituting the first grounds for cancelling the patent, both as a matter of fact and of law, were conceded, the court would be unable to fine any such fraud intended, or misconduct on the part of the defendants, as would afford either legal or equitable cause for the confiscation of their property. At most, it is only claimed that this particular land, by reasoj of having been once offered at public sale, is excluded from sale under the act of June 3rd, 1878; if this is so, the sale of it to Budd under that statute was an error, but only an error, and one for which the officers and agents of the Government are chiefly responsible, for upon them is cast the duty of administering the law according to its provisions and of holding all persons seeking to obtain title to lands from the Government to a compliance with the laws and regulations prescribed for the determination of their rights. When the Government of the United States seeks relief from a court of equity, it is as much bounden as any individual suitor by the rules of equity. It can attain such relief only when entitled to it upon principals of equity and good conscience. (United States vs. White, 17 Fed. Rep., 561; United States vs. Sangacinto Tin Co., 23 Fed. Rep., 279, and the same case, 225 U. S., 273.) It can not, to correct a mere erroe in a
98 transaction not tainted with crime or fraud, purpetrate so grave a wrong on its part as to deprive its adversary of valuable property or a sum of money without any compensation or equivalent therefor.

If this were a suit between two private individuals the plaintiff would not be equitably entitled to a recision of his contract and restoration of his title to the land without first, on his part, repaying the purchase money which he had received, and by the same rules of equity and justice the right of the Government to recover this land, and also to hold the purchase money paid for it must be denied, unless a forfeiture of the defendant's rights on the ground of fraud or wilful misconduct can be shown. In addition to the above consideration I hold that there was in fact no such error committed in allowing Budd's application under this statute, as counsel for the Government have claimed. I think a responsible construction of the statutes would limit the application of the words "and which have not been, offered at public sale according to law," to lands which at the date of the act belonged to the class of unoffered lands as con-

tradistinguished from what in the practice of the Land Department is known as offered lands. That is, lands which are subject to private cash entry at the minimum price. By the insertion of this clause in the statutes, no more was intended than to avoid the absurdity of making a law providing for the sale of lands at the price of $2.50 per acre, under
99 prescribed limitations and restrictions, which under existing laws were already subject to sale at one-half that price without the limitations and restrictions. So viewing the statutes, as this particular tract of land had been withdrawn from sale at a time prior to the date of the statute, its status was at the date of that act that of unoffered lands; and if otherwise of the character described in section one, was subject to sale under this statute, and the sale of it to Budd was lawful.

Most of the testimony introduced on the part of the Government was directed to support the second proposition; that is, as to the character of the land, whether it is in fact unfit for cultivation, and chiefly valuable for timber. The efforts of counsel in their argument were mainly directed toward this branch of the case. In the argument it has been contended that a proper interpretation of the statute would exclude from entering sale, under its provisions, all lands capable of being improved or redeemed from their natural unfitness for cultivation, and rendered capable of yielding crops of vegetation, grain, and fruit, and which have any element of value other than timber or stone. In other words, the court is asked to judicially determine that Congress by the use of the words "valuable chiefly for timber, but unfit for cultivation," in the first section of the act, and the words "unfit for cultivation *for cultivation*, and valuable chiefly for its timber and stone," in the second section, failed to express the meaning intended,
100 and that the reading of the act to express its true intent and meaning requires the rejection of those words and the substitution in their place of such words as the following: "Unfit and incapable of being made fit for cultivation, and of no value except for timber and stone." In support of this contention the opinion of Mr. Secretary Teller, in the case of Spithill vs. Gown, decisions of the Department of the Interior, volume 2, page 631, has been cited in which he says: "This act contemplates such timber lands as are found in broken, rugged, or mountainous regions where the soil when the timber is cleared off is unfit for cultivation, and not lands, though heavily timbered, where the soil is *susceptible* of cultivation."

The act in terms makes no reference to broken, rugged, or mountainous regions, and does not allude to the condition of the soil after removal of the timber, and I am not aware of any rule or reason requiring the court to so construe the statute as to enlarge the limitation which it imposes, or narrow its application so as to exclude all lands in the States and Territory named, except the inaccessable portions in the broken and mountainous regions.

For the production of valuable timber, strength and fertility of the soil and conditions favorable for the growth of vegetation are necessary, and there are no timber lands in this State which will not, after the timber has been removed, yield crops of vegetation, grains, and
101 fruit, and there are no broken, rugged, or mountainous regions unfit for cultivation where valuable timber can be found, and to give the statute the construction contended for makes it a self-contradiction

and impracticable, and thereby nullifies it. It is plain also, upon the face of the statute, that Congress intended that it should be understood according to the ordinary meaning of the words and phrases used. The introductory words in the first section are: "That surveyed public lands of the United States" * * * "may be sold" * * * . This language of the statute itself carries a direct *d*ontradiction made in the opinion of Mr. Secretary Teller, above cited, that the act contemplates such timber lands as are found in broken, rugged, or mountainous regions. The act was made to go into immediate effect upon its passage, and by its terms it embraces and authori*z*es the sale of surveyed lands which are not found in broken, rugged, or mountainous regions, for it is a matter of history in this country that settlements and improvements usually precede the survey, and it is a matter of continual complaint that the Government fails to extend its surveys as rapidly as the agricultural, lumbering, and mining industrial enterprises of the country demand, and it is a matter of common knowledge that the remote and more inaccess*a*ble regions where the land is unfit for cultivation have not been surveyed, and no provisions for the survey thereof appears to have been contemplated.

102 To fairly inter*r*upt this statute the general descriptive features of the country to which it applies must be taken into account. In each of the States named there is a diversity of climate, timber, soils, and natural formations. This is especially true of Washington, which may be taken as a representative of all, for the purpose of a more minute and particular description.

Within this State are mountains, plains, hills, valleys, rivers, lakes, seas, forests, prairies, and mines of coal, iron, and almost every kind of minerals. It is divided by the Cascade Range of mountains running north and south across its entire breadth. East of the mountains the country is generally timberless, and the land is good and generally brought under cultivation. However, it is not all of this description. There are in this part of the State small areas of timber of good quality, and the land is of inferior quality for agricultural purposes, though not barren. These timber tracts answer the description of the statute, of the lands unfit for cultivation and chiefly valuable for timber, and they are within the limits of the public surveys made, and being made as rapidly as appropriations can be obtained for the purpose. All of the State west of the mountains is a timbered region, though there are a few small prairies. The river bottoms and valley lands having a rich alluvial soil is considered good farming land, although, in its natural state, it is covered by a dense

103 growth of alder, ash, cottonwood, and maple timber, which is useful and valuable for fuel and many other purposes. The stumps and roots of this timber soon decay after the trees are cut down, and in two or three years' time they can be easily and cheaply removed and the land that yields bountiful crops of vegetables, grass, hops, grain, and fruits. Fortunes have been made out of the produce of comparatively small farms and this quality of land by men who, without capital, took the land in the rough and by their own hands improved and cultivated it. This class of land, although valuable for timber, is not chiefly so, and is not unfit for cultivation, because it can be profitable cleared, improved, and cultivated. The most valuable timber, however, grows upon hilly and stony land. Fir and cedar stumps and roots will remain many years with-

out decaying, and can not be got rid of without much labor or great expense; and the soil of such timber lands is not so rich and will not yield so abundantly as that which I have previously described, yet will, when cultivated, produce the same kind of crops after removal of the valuable timber, and while the stumps remain it is readily convertable into pasture, but is unfit for cultivation because it can not be at once made tillable without an expense greater than its value for agricultural purposes. Such land is chiefly valuable for its timber, and vast areas of it are to be found within the limits of the surveys. It is the character of the land contemplated by this statute, and is as
104 much subject to sale under its provisions, if situated in near proximity to navigable water, or a farming community, or a city or a railroad, as if it were in some remote, broken, rugged, or mountainous region. To a person acquainted with this country, this class of land is as readily distinguishable from the alder bottom and valley lands, which are considered valuable for cultivation, as a forest is distinguishable from a prairie.

The evidence before me leaves no uncertainty or doubt as to which class the tract conveyed by the patent to Budd belongs to. On the part of the Government eight witnesses have testified, proving that the land can be cultivated after the removal of the timber and stumps.

That it is similar to other lands in the immediate vicinity occupied by settlers who ease cultivate small tracts thereof; that in their opinion the land is valuable for agricultural purposes, and that the land is covered with a crust of leaf mould, which is an excellent pertilizer. And to confirm this testimony samples of the soil and specimens of the grain and grass grown by the settlers have been introduced.

These witnesses show by their evidence that the tract, except about fifteen acres, is timbered, and show nothing as to the value of the timber except that there has not been any market or demand for it. This evidence is insufficient to warrant the cancellation of a patent. But
105 the defendants have been not content to accept a Scotch verdict. They have met the issue with evidence of the most conclusive character. Thirteen witnesses were called who testified that the soil is stony and inferior for farming purposes; that it contains excellent fir and cedar timber, besides hemlock and an undergrowth of various shrubs and brush; that the trees are large, tall, and straight, and sound, and will yield from 50,000 to 150,000 feet of the best quality of lumber per acre, and this testimony and estimate is not controverted. The field notes made by the Government survey at the time of surveying the land, more than twenty-five years ago, describe the land as being stony and second rate, and the timber is fir, cedar, and hemlock, and the most convincing testimony of all is a series of twelve photographs taken near the centers of each legal subdivision of the tract. These pictures exhibit, with unerring certainty and faithfulness, magnificent trees standing so near together as to force each other to grow straight and tall. They satisfy the court that this tract is valuable and desirable for the timber upon it, and also that no man would be willing to subjugate this piece of forest for the mere sake of cultivating it.

(A sample photograph is here annexed.)

But few words are needed to dispose of the third proposition. The evidence shows that there were no valuable improvements on the land at the time Mr. Budd purchased it. Mr. Doherty, who at one time
106 settled upon and attempted to improve the land, soon became discouraged and abandoned it, his cabin became dilapidated and worthless, and all his other improvements disappeared long prior to Mr. Budd's entry.

The fourth reason alleged for cancelling this patent also vanishes upon an examination of the evidence, for there is nothing to support the charge made in the bill and explicitly denied in the answer, that prior to his application to purchase this land, Budd entered into an agreement with Montgomery to acquire the title for him. If such an agreement was made, the evidence certainly fails to show how, when, or where it was done. There is do direct evidence of such an agreement, and the circumstances shown lead only to a suspicion, not to a reasonable inference, much less to a conclusion. These circumstances, briefly narrated, are as follows:

I. Mr. Budd gave a deed of the land to Montgomery within one month from the time of making final proof in the land office and receiving the receiver's receipt.

About the time of this transaction Montgomery purchased a large number of other tracts of land in the vicinity of this one from persons who entered it as timber land, and he was known to be in the market as a buyer of timber lands in that locality. 3. A man named White spent a considerable time, previous to these purchases made by Montgomery, in exploring the lands, and represented himself at the time as being
107 in Montgomery's employ, and he acted as a witness for nearly all of the parties who made entries of timber lands and afterwards sold them to Montgomery, and he was also a witness for the defendant Budd in making his final proof as to this tract.

These are the only circumstances shown by legal evidence which in my opinion tend to prove the grave charge made against the defendant Budd, of having falsely sworn in his application to purchase this land, that he did not apply to purchase the same on speculation but in good faith to appropriate it to his own exclusive use and benefit; and that he had not, directly or indirectly, made any agreement or contract in any way or manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States should injure in whole or in part to the benefit of any person except himself, when in fact he had previously contracted with Montgomery, for a consideration, to acquire the title for Montgomery's benefit, that the deed executed subsequent to the final step *im*perfecting his right to the land, was in fact given pursuant to an agreement made anterior to the initial step in said proceedings.

Other testimony was introduced upon the trial, which was objected to as incompetent and irrelevant, to the effect that Montgomery had at some time prior to Budd's entry of the land visited that part of the country, and while there had advised one settler in the neighborhood to
108 take a timber claim, assuring him that the claim would be readily saleable, and that he could make a bonus of at least $100.00 by the transaction, and that Mr. White, above referred to, had promised

another man a bonus of $100.00 if he would secure a timber claim and sell it to Montgomery, and that this party acted upon the suggestion and did enter 160 acres of timber land, and after making his final proof deeded it to Montgomery and received therefor $100.00 from Montgomery, by a check, which was afterwards cashed at the bank, which sum so paid was in addition to the amount necessary to pay for the land in the land office, the land-office fees, and all expenses of *re*quiring the title, which Montgomery also paid. This evidence is immaterial, but I do not wish to rest my decision upon any mere rule *rule* of evidence or practice.

I prefer to receive the evidence and consider it for what it is worth, which is necessarily very little in this case. It was offered by the Government upon the theory that it connected Montgomery with other transactions which were in fact fraudulent and against the Government, and similar in kind to what is charged against him in this case; and it is assumed that he may be found guilty of the specific offense here charged upon evidence not proving or tending to prove the particular facts alleged, but going to prove the commission of other offenses of a similar kind. But even if all this be true this evidence proves nothing, and does not in any degree tend towards proving anything material as against the defendant Budd.

109 There is no evidence connecting him with any conspiracy; so I do not see how it is possible to draw from the circumstances shown by this testimony any inference that Mr. Budd was guilty of any such fraudulent conduct as that of Mr. Searle, the self-impeached witness who testified that he took a timber claim for Montgomery at White's suggestion for a bonus of $100.00. Now, the material question involved is not whether Montgomery was contriving to acquire title to a large tract of land by evasion of the law, but it is whether the entrymen—that is, the defendant Budd—was guilty of evading the law or of perpetrating a fraud upon the United States, and whether he swore falsely in the affidavit which he filed upon applying to enter this land; for, if he acted in good faith up to the time of the issuance of the receiver's receipt, his right to the land then became perfect, and from that time the jus disponendi was in him. And, as against him, it can not be contended that evidence of misconduct of other persons not shown to have been acting in concert with him is sufficient to justify any inference whatever.

This statute not by its terms assume to obligate a person who acquires a title to land or to control his use or right to dispose of it for any period of time after he shall have complied with its provisions in perfecting his right to it. It only requires good faith on the part of the purchaser, and it is intended to prevent the acquisition of land from the United

110 States at a wholesale rate by individuals or corporations by using individual persons who do not acquire it *or* their personal volition, bot simply as mediums for the transmission of titles from the Government to land-grabbers, and to effect this object the law goes no further than to prohibit entries by persons who have, prior to the filing of their application, bound themselves by contracts.

Upon a careful examination of all the testimony, and in the light of all the facts shown by the record, I conclude that there is an entire absence of testimony of the commission of any fraud or evasion of the laws of the

United States, or of any such wrong on the part of the defendants as to justify the court in granting the relief prayed for in this bill. Let there be a decree in favor of the defendants.

C. H. HANFORD, *Judge.*
P. H. WINSTON,
U. S. Att'y.
P. C. SULLIVAN,
Assistant U. S. Att'y for Plaintiff.
B. F. DENNISON,
RALEIGH STOTT,
For Defendants.

111 UNITED STATES OF AMERICA,
District of Washington, ss:

Be it remembered that at the regular July term, 1890, of the United States circuit court for the western division of the district of Washington, begun and held in the city of Tacoma, in the county of Pierce and said district, honorable C. H. Hanford, United States district judge for the district of Washington presiding, by the direction of honorable Lorenzo Sawyer, United States circuit judge for the ninth judicial circuit. Among others the following proceedings were had to wit:

AUGUST 20TH, 1890.

THE UNITED STATES, PLAINTIFF,
vs.
DAVID E. BUDD AND JAMES B. MONTGOMERY, defendants.

Decree.

This cause having been hereto submitted and taken under advertisement, the court after due consideration, being now fully advised, finds that the allegations of the bill of complaint were not true. It is therefore ordered, adjudged, and decreed by the court that the bill of complaint herein be and the same is dismissed.

Done in open court this 20th day of August, 1890.

C. H. HANFORD,
District Judge.

Endorssd: Judgment. Filed Aug. 20th, 1890. A. Reeves Ayres, clerk.

112 In the circuit court of the United States, district of Washington, western division, ninth circuit.

THE UNITED STATES OF AMERICA, COMPLAINANT,
vs.
DAVID E. BUDD AND JAMES B. MONTGOMERY.

To the honorable judges of the circuit court of the United States, district of Washington, western district, ninth circuit.

Comes now the United States of America, by P. C. Sullivan, Assistant U. S. Attorney for the district of Washington, who appears on behalf of the

complainant, and respectfully represents to the honorable court, that on the 17th day of August, 1890, at the regular July term of said court begun and held on the first Tuesday in July, 1890, at Tacoma, Pierce County, Washington, which court is still in session, a final decree was rendered and entered in said cause dismissing the plaintiffs' bill and affirming the decree of the district court of the United States for the second judicial district of Washington Territory, holding terms at Vancouver theretofore rendered therein, that in the opinion of your petitioners there are just grounds for an appeal from the said final decree to the Supreme Court of the United States.

Wherefore complainant gives notice that he appeals to the Su-
113 preme Court of the United States from the said final decree rendered as aforesaid, and prays the honorable court that such an appeal be allowed.

P. C. SULLIVAN,
Assistant District Attorney, for the Complainant.

Now on this 28th day of January, 1891, the above application having been submitted in open court by Assistant U. S. District Attorney P. C. Sullivan, on behalf of complainant, it is ordered by the court that an appeal be allowed from the final decree of said application therein prayed for.

C. H. HANFORD, *Judge.*

Endorsed: Petition for allowance of appeal, and order of court.

114 UNITED STATES OF AMERICA,
District of Washington, ss:

Be it remembered that at the regular July term, A. D. 1890, of the United States circuit court for the western division of the district of Washington, begun and held in the city of Tacoma, in the county of Pierce, in said district, honorable C. H. Hanford, United States district judge for the district of Washington, presiding, by the direction of honorable Lorenzo Sawyer, United States circuit judge for the ninth judicial circuit. Among others the following proceedings were had, to wit:

JANUARY 29TH, 1891.

THE UNITED STATES OF AMERICA, COMPLAINANTS,
vs.
DAVID E. BUDD AND JAMES B. MONTGOMERY.

Order allowing appeal.

Now on this 28th day of January, 1891, in open court, appears the complainant, the United States of America, by P. C. Sullivan, assistant U. S. attorney, for the district of Washington, and makes application orally and in writing to appeal the said cause to the Supreme Court of the United States, and to appeal from the final decree rendered in said cause on the 17th day of August, 1890, by the said court, dismissing complainant's bill.

The court thereupon orders that such an appeal be, and the same is hereby allowed.

C. H. HANFORD, *Judge.*

Endorsed: Order allowing appeal. Filed Jany. 28th, 1891. A. Reeves Ayres, clerk.

114½ In circuit court of the United States for the district of Washington, western division (ninth circuit).

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID B. BUDD AND J. B. MONTGOMERY,
Defendants.

Affidavit of value.

UNITED STATES OF AMERICA,
District of Washington, County of Pierce, ss:

P. C. Sullivan, being duly sworn, on his oath deposes and says: That he is the assistant United States attorney for the district of Washington; that as he is informed and believes and states, the land in controversy in this action is of greater value than five thousand dollars; and that the said real estate in controversy was of greater value than five thousand dollars at the time the decree was entered in said suit; and that said real estate has been of greater value than five thousand dollars during all the time the said cause has been pending in the aforesaid circuit court.

P. C. SULLIVAN.

Subscribed and sworn to before me, this 28th day of August, 1891.

A. REEVES AYRES,
Clerk U. S. Circuit Court, District of Washington.

Filed August 28, 1891, as of date August 20, 1891. A. Reeves Ayres, clerk.

115 In circuit court of the United States for the district of Washington, western division (ninth circuit).

THE UNITED STATES OF AMERICA, PLAINTIFF,
vs.
DAVID E. BUDD AND J. B. MONTGOMERY,
Defendants.

Order to file affidavit nunc pro tunc.

Now, on this 28th day of August, 1891, upon the application of P. C. Sullivan, assistant United States attorney, the attorney for the plaintiff in this cause, it is—

Ordered, that the affidavit presented by said attorney, in said cause, showing that the value of the property in controversy in this action at the time of the commencement of the suit, ever since did, and now does exceed the sum of five thousand dollars be filed in the said action, nunc pro tunc, as of date August 20th, 1890.

C. H. HANFORD, *Judge.*

116 *W. Deed—D. E. Budd and wife to J. B. Montgomery.*

Know all men by these presents, that we, David E. Budd and Kate Budd, his wife, of Multnomah County, Oregon, in consideration of one dollar to us paid by James B. Montgomery, do hereby grant, bargain, sell and convey to said James B. Montgomery, his heirs and assigns forever, the following described parcel of real estate, to wit: All of the southeast

quarter (¼) of section No. Twelve (12), in township No. Nine (9) north of range No. One (1) west, Willamette meridian, in Cowlitz County, Territory of Washington, containing one hundred and sixty acres, together with the tenements, hereditaments, and appurtenances thereto belonging, or in any wise appertaining, and also our estate, right, title, and interest at law and and equity therein or thereto, including dower and right of dower: To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever, and I, said David E. Budd, do covenant with the said James B. Montgomery, his legal representatives forever, that the said real estate is free from all encumbrances, and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful claims and demands of all persons whosoever.

In witness whereof we have set our hands and seals this 4th day of December, A. D. 1882.

D. E. BUDD. [SEAL].
MRS. KATE BUDD. [SEAL].

Signed, sealed, and delivered in presence of us witnesses:
117 ED. W. BINGHAM, as to D. E. B. and K. B.
B. H. VIBBERT, as to D. E. B.
CARRIE M. BUDD, as to K. B.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 4th day of December, 1882, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named D. E. Budd and Kate Budd, his wife, who are known to me to be the identical persons described in and who executed the within instrument and acknowledged to me that they executed the same fully and voluntarily for the uses and purposes therein mentioned, and said Kate Budd, the wife of said D. E. Budd, on an examination made by me separate and apart from her said husband, acknowledged to me that she executed the same freely and voluntarily, and without fear, coercion, or compulsion from any one. In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.] ED. W. BINGHAM,
Notary Public for Oregon.

Filed May 25th, 1885, at 10 a. m. P. S. Reese and (N. 1).

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, Walter Crosby, auditor and ex-officio recorder of deeds, in and for the County of Cowlitz, and Territory of Washington, hereby cer-
118 tify that the annexed and foregoing is a full, true, and correct copy of a deed from D. E. Budd and wife to James B. Montgomery, as the same appears of record on the records of the said county, on pages 356 and 357, Book 1, of deeds. Witness my hand and official seal this 21st day of November, 1887.

WALTER CROSBY,
Auditor and ex-officio Recorder of Deeds in and for Cowlitz County, Washington Territory.

(Endorsed:) Copy of deed from D. E. Budd et ux. to James B. Montgomery. Case 1813. Plfs. Ex. "B-1." Nov. 23, 1887. John W. Cochran, stenographer, referee.

Warranty deed, Michael H. McMannus to J. B. Montgomery.

Know all men by these presents that I, Michael H. McMannus, unmarried, of Multnomah County, Oregon, in consideration of one dollar, *dollars* to me paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following described parcel, to wit:

The southeast quarter (¼) of section thirty-two (32), in township nine north, of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory, together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my right, title, and interest at law and equity therein or thereto, including dower and right of dower. To have and to hold the same to the said James B. Montgomery, his
119 heirs and assigns, forever; and I, said Michael H. McMannus, do covenant with the said James B. Montgomery and his legal representatives forever; that the said real estate is free from all incumbrances and that I will and my heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns, forever against the lawful claim and demands of all persons whomsoever. In witness whereof I have hereunto set my hand and seal this 26th day of June, A. D. 1883.

MICHAEL H. MCMANNUS. [SEAL.]

Signed in presence of—
J. W. SCRIBER.
E. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 26th day of June, 1883, before me, the undersigned, a notary public in and for the said county and State, personally appeared the within-named Michael H. McMannus (unmarried), who is known to me to be the identical person described in who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19th, 1885, at 9 a. m. P. L. Reese, auditor.

120 TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from Michael H.

McMannus to James B. Montgomery, as the same appears of record on page 466 of vol. "1" of deed records of said county. Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. "1." Nov. 22, 1887. Deed of McMannus. John W. Cochran, stenographer, referee.

W. Deed, John H. Steffen to James B. Montgomery.

Know all men by these presents that John H. Steffen and Willhelmine Steffin, his wife, of Multnomah County, Oregon, in consideration of one dollar, *dollars* to paid by Jame*d* B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns, forever, the following described parcel of real estate, to wit: All of the northeast quarter (¼) of section No. twelve (12) in township No. nine (9) north, of range No. one (1) west, Willamette meridian, Clarke County, Washington Territory, containing one hundred and sixty acres, together with the tenements, hereditaments, and appurtenances thereto be-
121 longing or in any wise appertaining, and also all our estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower, to have and to hold the same to the said James B. Montgomery, his heirs and assigns, forever; and I, John H. Steffins, do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that I will and my heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns, forever, against the lawful claims and demands of all persons whosoever claiming or to claim the same by, through, or under us or either of us. In witness whereof we have hereunto set our hands and seals this 27th day of February, A. D. 1883. Signed, sealed, and delivered in presence of—

J. H. STEFFINS. (SEAL.)
WILHELINS. (SEAL.)

GEORGE SHARPES.
E. W. BINGHAM.

STATE OF OREGON, *County of Multnomah, ss:*

This certifies that on this 27th day of February, 1883, before me, the undersigned, a notary public, in and for said county and State, personally appeared the within named John H. Steffins, and Wilhelmine Steffins, his wife, who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily for the use and purposes
122 therein mentioned. And the said Wilhelmine Steffins, the wife of the said John H. Steffins, on an examination alone made by me separate and apart from her said husband, acknowledged to me that she executed the same freely and voluntarily and without fear, coercion, or compulsion from anyone. In testimony whereof I have hereunto set my hand and notarial seal the day and year last above written.

ED. W. BINGHAM. [L. S.]
Notary Public for Oregon.

Filed Nov. 18th, 1885, at 4 p. m., request C. E. Forsythe.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from James B. Montgomery as the same appears of record on page 454 of Vol. "I," deed records of said county. Witness my hand and county seal this 29th day of December, A. D. 1883.

P. L. REESE,
County Auditor and ex officio Recorder
in and for Cowlitz Co., W. T.

Endorsed: Case 1813. Pl'f's Ex. 10. Deed of Steffin. Nov. 22, 1887. John W. Cochran, stenographer, referee.

W. deed, G. W. Taylor to James B. Montgomery.

Know all men by these presents that I, George W. Taylor (not married), of Cowlitz County, Washington Territory, in consideration of one dollar *dollar* to me paid by James B. Montgomery, of Portland,
123 Multnomah County, Oregon, do hereby grant, bargain, sell, and convey to the said James B. Montgomery, his heirs and assigns forever, the following described parcel of real estate, to wit: The southwest quarter of the northeast quarter, the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section No. eight (8) in township No. nine, north of range No. one west, Willamette meridian, containing one hundred sixty acres, and further described as situated in Cowlitz County, Washington Territory.

Together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my estate, right, title, and interest therein or thereto; to have and to hold the same to the said James B. Montgomery, his heirs and assigns forever; and I, the said George W. Taylor, do covenent with the said James B. Montgomery and his legal representatives forever that the said real estate free from all incumbrances, and that I will, and my heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful claims and demands of all persons whosoever. In witness whereof I have hereunto set my hand and seal this 13th day of December, A. D. 1882.

GEORGE W. TAYLOR. [SEAL.]

Signed, sealed, and delivered in presence of—
ED. W. BINGHAM.
H. T. BINGHAM.

124 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 29th day of December, 1882, before me, the undersigned, a notary republic in and for said county and State, personally appeared the within named George W. Taylor, who is known to me to be the identical person described in and executed the within instrument, and

who acknowledged to me that he executed the same free and voluntarily for the use and purposes therein mentioned. In testimony whereof I have hereunto set my hand and notarial seal the day and year last above written.

H. T. BINGHAM, [L. S.]
Notary Public for the State of Oregon.

Filed Nov. 13th, 1885, at 3:30 p. m., P. L. Reese., and recorded in Book I, page 454.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from Geo. W. Taylor to James B. Montgomery, as the same appears of record on page 454 of Vol. "I" of deeds records of said county. Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 11. Deed of Taylor. Nov. 22, 1887. John W. Cochran, stenographer, referee.

125 *Warranty deed, Charles H. Harmens to James B. Montgomery.*

Know all men by these presents that I, Charles H. Harmens (unmarried), of Cowlitz County, Washington Territory, in consideration of one dollar *dollars* to me paid by James B. Montgomery, of Portland, Multnomah County, Oregon, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following described parcel of real estate, to wit: The east half of the northeast quarter and the east half of the southeast quarter of section No. twenty-two, in township No. nine, north of range No. one west, Willamette meridian, containing one hundred and sixty acres, and further described as situated in Cowlitz County, Washington Territory. Together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower. To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever; and I, said Charles H. Harmens, do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that I will, and my heirs, executors and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful claims and demands of all persons whomsoever.

126 In witness whereof I have hereunto set my hand and seal this fifteenth day of December, A. D. 1882.

CHARLES H. HARMENS. [SEAL.]

Signed, sealed, and delivered in presence of—
JAMES B. PEOBY.
R. M. DENNIS.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 13th day of December, 1882, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named Charles H. Harmens, who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned, and that he is not married. In testimony whereof I have hereunto set my hand and notarial seal the day and year last above written.

[L. S.] ED. W. L. BINGHAM,
Notary Public for Oregon.

Filed, Nov. 18, 1885, at 3 p. m. Request of Forsyth. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor of Cowlitz County, and ex officio recorder for said county, do hereby certify that the within is a full, true, and correct copy of deed record in Book "I," page 451, records of said county; said deed being from Hamilton Knott & wife to James B. Montgomery. Witness my hand and seal of said county this 29th day of December, 1886.

P. L. REESE,
Auditor and Recorder.

127 (Endorsed:) Case 1813. Plfs. Ex. 12. Deed of Harmens. Nov. 22, 1887. John W. Cochran, stenographer, referee.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor of Cowlitz County, and ex officio recorder for said county, do hereby certify that the within is a full, true, and correct copy of deed from Charles H. Harmens to James B. Montgomery as the same appears of record on page 451 of Book "I," records of said county. Witness my hand and seal of said county this 29th, 1886.

P. L. REESE,
Auditor and Recorder.

W. deed. Hamilton Knott and wife to James B. Montgomery.

Know all men by these presents that we, Hamilton Knott and Elizabeth Knott, his wife, of Multnomah County, Oregon, in consideration of one dollar *dollars* to us paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns, forever, the following-described parcel of real estate, to wit: The east half (½) of the northwest quarter (¼) and the west half (½) of the northeast quarter (¼) of section eighteen (18), township none (9) north, of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory, together with the tenements, hereditaments and appurtenances thereto belonging or in anywise apper-

taining, and also all our estate, right, title, and interest at law and
128 equity *equity* therein or thereinto, including dower and right of dower; to have and to hold the same to the said James B. Montgomery, his heirs and assigns, forever; and we, said Hamilton Knott, do covenant with the said James B. Montgomery, and his legal representatives, forever, that the said real estate is free from all incumbrances, and will, and his executors and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns, forever, against the lawful claims and demands of all persons whomsoever. In testimony whereof we have hereunto set our hands and seals this 27th day of June, A. D. 1883.

HAMILTON KNOTT, [SEAL.]
LIZZIE KNOTT. [SEAL.]

Signed in presence of—
FRED H. MORTIN,
ED. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 27th day of June, 1883, before me, the undersigned, a notary public in and for the said county and State, personally appeared the within-named Hamilton Knott, and Lizzie Knott, his wife, who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily for the use and purpose therein mentioned; and Lizzie Knott, the wife of the said Hamilton Knott, on an examination made by me separate and apart from her said husband, acknowledged to me that she executed the same freely and volun-
129 tarily and without fear, coercian, or compulsion from any one.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18th, 1885, at 2 p. m. Request C. E. Forsyth. P. L. Reese, auditor.

(Endorsed:) Case 1813, Plfs. Ex. 13, Deed of Knott. Nov. 22, 1887. John W. Cochran, stenographer, referee.

Warranty deed. Alexander Lothian to James B. Montgomery.

Know all men by these presents that I, Alexander Lothian, unmarried, of Multnomah County, Oregon, in consideration of one dollar *dollars* to me in hand paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns, forever, the following-described parcels of real estate, to wit: The southwest quarter (¼) of section twenty-two, in township nine (9) north, of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory, together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise ap-

pertaining, and also all estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower; to have and to hold the same to the said James B. Montgomery, his heirs and assigns, forever; and said Alexander Lothian do covenant with the said James B. Montgomery and his legal representatives forever that the said
130 real estate is free from all incumbrances, and that he will, and his heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, heirs and assigns, forever, against the lawful claim and demand of all persons whomsoever.

In testimony whereof I have hereunto set my hand and seal this 23rd day of June, A. D. 1883.

ALEXANDER LOTHIAN. [SEAL.]

Signed in presence of—
GEORGE M. MISNER.
E. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that this 23rd day of June, 1883, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named Alexander Lothian, unmarried, who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned. In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.] E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19th, 1885, at 6 p. m. Request of C. E. F. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of deed from Alexander Lothian to James B. Montgomery, as the same appears of record
131 on page 401, of Vol. "I" of deed records in said county. Witness my hand and official seal this 29th day of December, A. D. 1886.

[SEAL.] P. L. REESE,
County Auditor in and for Cowlitz County, W. T.

(Endorsed:) Case 1813. Plfs. Ex. 14, deed of Lothian, Nov. 22, 1887. John W. Cochran, stenographer, referee.

W. deed, James L. Jewett to James B. Montgomery.

Know all men by these presents that James L. Jewett (unmarried), of Multnomah County, Oregon, in consideration of one dollar, *dollars* to him paid by James B. Montgomery, do hereby grant, bargain, sell, and

convey to said James B. Montgomery, his heirs and assigns forever, the following described parcels of real estate, to wit: The northeast quarter (¼) of section twenty-eight (28), township nine (9), north of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory. Together with the tenaments, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower. To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever; and the said James L. Jewett do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances and that he will and his heirs, executors, administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful
132 claims and demands of all persons whomsoever.

In witness whereof I have hereunto set my hand and seal this 27th day of June, A. D. 1883.

JAMES L. JEWETT. [SEAL.]

Signed in presence of—
J. N. SCRIBER.
E. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on the 27th day of June, 1883, before me, the undersigned, a notary public in and for the said county and State, personally appeared the within-named James L. Jewett, unmarried, who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19th, 1885, at 9 a. m. Request C. E. Forsyth. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from James L. Jewett to James B. Montgomery, as the same appears of record on page 465, Vol. I, of deed records of said Co.
133 Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
Auditor and ex officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 15, deed of Jewett, Nov. 22, 1887. John W. Cochran, stenographer, referee.

Warranty deed, W. D. O'Ragan to James B Montgomery.

Know all men by these presents that we, W. D. O'Ragan and Nellie O'Ragan, his wife, of Multnomah County, Oregon, in consideration of one dollar, *dollars* to us paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following described parcel of real estate, to wit: The southwest quarter (¼) of section twenty-two (22) township ten (10) north of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory. Together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all our estate, right, title, and interest at law and equity therein or thereinto, including dower and right of dower. To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever; and we, said W. D. O'Ragan and Nellie O'Ragan, do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that we will and our heirs, executors, and administrator shall warrant and defend the same to the said heirs and assigns forever against
134 the lawful claims and demands of all persons whomsoever. In witness whereof we have hereunto set our hands and seals this 27th day of June, A. D. 1883.

W. D. O'RAGAN. [SEAL.]
Mrs. NELLIE O'RAGAN. [SEAL.]

Signed in presence of—
W. A. FREEMAN.
E. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 27th day of June, 1883, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named W. D. O'Ragan, and Nellie O'Ragan, his wife, who are known to me to be the identical persons described in and who *and who* executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily for the use and purposes therein mentioned, and Nellie O'Ragan, the wife of the said W. D. O'Ragan, on an examination made by me separate and apart from her said husband, acknowledged to me that she executed the same freely and voluntarily, and without fear, coercion, compulsion from any one.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19, 1885, at 12 m. Request C. E. Forsyth.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed

135 and foregoing is a true, full, and correct copy of a deed from W. D. O'Ragan and wife to James B. Montgomery, as the same appears of record on page 490 of vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

B. L. REESE,
County Auditor and Ex Officio Recorder in and for Cowlitz County, W. T.

(Endorsed:) Case 1813. Plf's Ex. 16. Deed. O'Ragan. Nov. 22, 1887. John W. Cochran, stenographer, referee.

W. deed. Charles C. Cornell, James B. Montgomery.

Know all men by these presents, that I, Charles C. Cornell (not married), of Multnomah County, Oregon, in consideration of one dollar *dollars* to him paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to the said James B. Montgomery, his heirs, and assigns, forever, the following-described parcel of real estate, to wit:

All of the east half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$), and lot one (1) and two (2) of section No. eighteen (18), in township No. nine (9) north, of range No. one (1) east, Willamette meridian, Cowlitz County, Washington Territory, containing one hundred and sixty-seven and fifty one-hundredths of an acre, together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower:

136 To have and to hold the same to the said James B. Montgomery, his heirs, and assigns, forever; and covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that —— will, and heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns, forever, against the lawful claims and demands of all persons whomsoever.

In witness whereof I have hereunto set my hand and seal this 11th day of December, A. D. 1882.

CHARLES C. CORNELL. [SEAL.]

Signed, sealed, and delivered in presence of witness—
E. W. BINGHAM,
P. F. CASTLEMEIR.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on the 11th day of December, 1882, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named Charles C. Cornell (unmarried), who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and

voluntarily for the use and purposes therein mentioned. In testimony whereof I have hereunto set my hand and official the day and year last above written.

E. W. BINGHAM. [L. S.]
Notary Public for Oregon.

Filed Nov. 18, 1885, at 3 p. m. Request of C. E. Forsyth. P. L. Reese, auditor.

137 STATE, TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from Charles C. Cornell to James B. Montgomery, as the same appears of record on page 453, of vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and Ex Officio Recorder
in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plf's. Ex. 17. Deed Cornell. Nov. 22, 1887. John W. Cochran, stenographer, referee.

W. deed. Zeba M. LaRue to James B. Montgomery.

Know all men by these presents that we, Zeba M. LaRue, of Multnomah County, Oregon (unmarried), in consideration of one dollar *dollars* to me paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James *James* B. Montgomery, his heirs and assigns, forever, the following-described parcel of real estate, to wit: The northwest quarter ¼ of section twenty-eight, in township nine (9) north, of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory, together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also all my estate, right, title, and interest at law and equity
138 therein or thereto, including dower and right of dower: To have and to hold the same to the said James B. Montgomery, his heirs and assigns, forever; and I, said Zeba M. LaRue, do covenant with said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns, forever, against the lawful claims and demands of all persons whatsoever.

In witness whereof I have hereunto set my hand and seal this 14th day of June A. D. 1883.

Z. M. LARUE. [SEAL.]

Signed, sealed, and delivered in presence of—
C. W. PARREE,
E. L. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 14th day of June, 1883, before me, the undersigned, a notary public in for said county and State, personally appeared the within-named Z. M. La Rue, who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes mentioned.

In witness whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19th, 1885, 8 a. m. Request E. C. Forsyth. P. L. Reese, auditor.

139 TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from Z. M. La Rue to James B. Montgomery, as the same appears of record on page 464, vol. "I," of deed records of said co.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and Ex-Officio Recorder,
in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813, Plffs. Ex. 18. Deed of La Rue. Nov. 22, 1887. John W. Cochran, stenographer, referee.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from G. M. Misner and wife to James B. Montgomery, as the same appears of record on page 463, of vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and Ex Officio Recorder of Deeds
in and for Cowlitz Co., W. T.

W. deed. G. M. Misner and wife to James B. Montgomery.

Know all men by these presents that we, George M. Misner, of
140 Multnomah County, Oregon, and Synthia Misner, his wife, in consideration of one dollar, *dollars* to us paid by James B. Montgomery, of Portland, Multnomah County, Oregon, do hereby grant, bargain,

and sell, and convey to said James B. Montgomery, his heirs and assigns, forever, the following-described parcel of real estate, to wit: The west ($\frac{1}{2}$) of northwest quarter ($\frac{1}{4}$) and the west half ($\frac{1}{2}$) of the southwest quarter ($\frac{1}{4}$) of section six (6), township nine (9) north, of range one (1) west, Willamette meridian, and being further described as being in Cowlitz County, Washington Territory, containing one hundred and forty-three $\frac{68}{100}$ acres, according to gen. survey: Together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also all our estates, rights, titles, and interests at law and equity therein of thereto, including dower and right of dower:

To have and to hold the same to the said James B. Montgomery, his heirs and assigns, forever; and we, said George M. Misner and Synthia Misner, do covenant with said James B. Montgomery and his legal representatives forever, that the said real estate is free from all incumbrances, and that we will, and our heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, heirs, and assigns forever against the lawful claims and demands of all persons whatsoever.

In witness whereof we have hereunto set our hand and seals this 1st day of May, A. D. 1883.

GEORGE M. MISNER. [SEAL.]
SYNTHIA MISNER. [SEAL.]

141 Signed, sealed, and delivered in presence of—
Mrs. FEASTER.
E. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 1st day of May, 1883, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named George M. Misner, and Synthia Misner, his wife, who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily for the use and purposes therein mentioned, and said Synthia Misner, the wife of the said George M. Misner, on an examination made by me separate and apart from her said husband, acknowledged to me that she executed the same freely and voluntarily and without fear, coercion, or compulsion from any one.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19, 1885, at 7 p. m. Request of C. E. Forsythe. P. L. Reese, auditor.

(Endorsed:) Case 1813. Plf's. Ex. 19. Deed Geo. M. Misner. Nov. 22, 1887. John W. Cochran, stenographer, referee.

142 *J. K. Misner to J. P. Mortgomery.*

Know all men by these presents, that James K. Misner, of Multnomah County, in consideration of one dollar *dollars* to me paid by James B. Montgomery, of Multnomah County, Oregon, do hereby grant, bargain, sell, and convey to said James B. Montgomery, heirs and assigns, forever, the following-described piece of real estate, to wit: The east half ($\frac{1}{2}$) of the northwest quarter ($\frac{1}{4}$) and the northwest quarter ($\frac{1}{4}$) of the northeast quarter ($\frac{1}{4}$) section six (6), in township nine (9) north, of range one west, Willamette meridian, containing according to Government survey one hundred and twenty acres, and further described as situated in Cowlitz County, Washington Territory: Together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also all our estate, right, title, and interest at law and equity therein and thereto, including dower and right of dower: To have and to hold the same to the said James B. Montgomery, his heirs and assigns; and I, said James K. Misner, do covenant with said James B. Montgomery, and his legal representatives forever, that said real estate is free from all incumbrances, and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns, forever against the lawful claims of all persons whatsoever.

In witness whereof, I have hereunto set my hand and seal this first day of May, A. D. 1883.

JAMES K. MISNER. [SEAL.]

143 Signed, sealed, and delivered in presence of—
FRED. W. NORTAN.
E. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This certifies, that on this 2nd day of May, 1883, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named James K. Misner, who is personally known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand on the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 17th, 1885, at 5:30 p. m. Requested of C. E. Forsyth. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex-officio recorder of deeds, in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from James B.

Misner to James B. Montgomery, as the same appears of record on page 467, of Vol. "I" of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex-Officio Recorder,
in and for Cowlitz Co., W. T.

144 (Endorsed:) Case 1313. Plfs. Ex. 20, Deed of Misner, Nov. 22, 1887. John W. Cochran, stenographer. Referee.

W. Deed. Allen A. Unkless to James B. Montgomery.

Know all men by these presents, that I, Allen A. Unkless, of Multnomah County, Oregon, unmarried, in consideration of one dollar, dollars to me paid by James B. Montgomery, of Portland, Multnomah County, Oregon, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following-described parcel of real estate, to wit: The east half (½) of the northeast quarter (¼), and the northeast quarter of the southeast quarter (¼) of section twenty (20), township nine north, range one (1) west, Willamette meridian, containing according to Gov. survey, one hundred and twenty acres, and being further described as situated in Cowlitz County, Washington Territory. Together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also all our estate, right, title, and interest at law and equity therein or thereto including dower and right of dower. To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever. And I, said Allen A. Unkless, do covenant with the said James B. Montgomery and his legal representatives forever, that the said real estate is free from all incumbrances, and that I will and my heirs, executors, and administrators shall warrant and defend the
145 same to the said James B. Montgomery, his heirs, and assigns forever against the lawful claims and demands of all persons *of all persons* whatsoever.

In witness whereof I have hereunto set my hand and seal this first day of May, A. D. 1883.

ALLEN A. UNKLESS. [SEAL.]

Signed, sealed, and delivered in presence of:
GEORGE N. WISNER.
E. W. BINGHAM.

STATE OF OREGON, *County of Multnomah, ss:*

This certifies that on this 1st day of May, A. D. 1883, before me the undersigned, a notary public in and for said county and State, personally appeared the within-named Allen A. Unkless, who is known to me to be the identical person described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and official seal, the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19, 1885.—11:45 a. m. Request of C. E. Forsythe, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex-officio recorder of deeds, in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from
146 Allen A. Unkless to James B. Montgomery, as the same appears of record on page 469 of Vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and Ex-officio Recorder
In and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 21, Deed Unkless, Nov. 22, 1887. John W. Cochran, stenographer. Referee.

John Mangs to James B. Montgomery.

Know all men by these presents, that I, John Mangs, unmarried, of Cowlitz County *County*, Washington Territory, in consideration of one dollar *dollars* to me paid by *Jmaes* B. Montgomery, of Portland, Multnomah County, State of Oregon, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following-described parcel of real estate, to wit: The east half (½) of the northwest quarter (¼), and the northeast quarter of the southeast quarter of section No. fourteen, in township No. nine of range No. one west, Willamette meridian, containing one hundred and sixty acres, and further described as situated in Cowlitz County, Washington Territory, together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower, to have and to hold the same to the said James B. Montgomery, his heirs and
147 assigns forever, and I, John Mangs, do covenant with the said James B. Montgomery and his legal representatives forever, that the said real estate is free from all incumbrances, and that I will, and my heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful claims and demands of all persons whosoever.

In witness whereof I have hereunto set my hand and seal this fifteenth day of December, A. D. 1882.

his
JOHN x MANGS. [SEAL.]
mark.

Signed, sealed, and delivered in presence of—
JAMES B. LEADY.
R. M. DENNIS.
CHARLES H. HAMENS.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 15th day of December, 1882, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named John Mangs, who is known to me to be the

identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned, and that he is not married.

In testimony whereof I have hereunto set my hand and notary seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed the 18, 1885, at 2:15 p. m. Request of E. E. Forsyth. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

148 I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from John Mangs to James B. Montgomery, as the same appears of record on page 453, Vol. "I," of deed records of said county.

Witness my hand and county seal the 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 22. Deed Mangs, Nov. 22, 1887. John W. Cochran, stenographer, referee.

Warranty deed, Wm. A. Freemean to James B. Montgomery.

Know all men by these presents that we, Wm. A. Freeman and Belle Freeman, his wife, of Multnomah County, Oregon, in consideration of one dollar, *dollars* to paid by James B. Montgomery, *to* hereby grant, bargain, sell, and *com*vey to said James B. Montgomery, his heirs and assigns forever, the following described parcel of real estate, to wit:

Southeast one-quarter (¼) of section twenty-eight (28), in township nine (9), north of range one (1) west, Willamette meridian, and further described as situated in Cowlitz County, Washington Territory.

Together with all the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining; and also all estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower. To have and to hold the same to the said James
149 B. Montgomery, his heirs and assigns forever; and said Wm. A. Freeman do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that will and heirs, executors, and administrators shall warrant and defend the same to the said heirs and assigns forever against the lawful claims and demands of all persons whosoever.

In witness whereof we have hereunto set our hands and seal this 22nd day of June, A. D. 1883.

WILLIAM A. FREEMAN. [SEAL.]
BELLE FREEMAN. [SEAL.]

Signed in presence of—
FANNIE C. MASON.
ED. W. BINGHAM.

STATE OF OREGON,
County of Multnomah, ss:

This to certify that on this 22nd day of June, 1883, before me, the undersigned, a notary public in and for the said county and State, personally appeared the within named William A. Freman and Belle Freeman, his wife, who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily for the use and purpose therein mentioned, and Belle Freeman, the wife of the said Wm. A. Freeman, on an examination made by me separate and apart from her said husband, acknowledged to me that she executed the same freely and voluntarily and without fear, coercion, or compulsion from any one. In testimony whereof I have hereunto set my hand and official seal the
150 day and year last above written.

[L. S.] E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18, 1885, at 4:30 p. m. Request of C. E. Forsyth. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from William A. Freeman and wife to James B. Montgomery, as the same appears of record on page 456, of Vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886. County auditor and ex-officio recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 9. Deed Freeman. Nov. 22, 1887. John W. Cochran, stenographer, referee.

W. deed, Alvin B. Hastings and wife to James B. Montgomery.

Know all men by these presents that we, Alvin B. Hastings and Harriet Hastings, his wife, of Multnomah County, State of Oregon, in consideration of one dollar, *dollars* to us paid by James B. Montgomery, do hereby grant, bargain, sell and convey to said James B. Montgomery, his heirs and assigns forever, the following described parcels of real estate, to wit: All of the northeast quarter (¼) of section No. eighteen (18), in township No. nine (9), north of range No. one (1) east, Willamette
151 meridian, situate in C County, Territory of Washington, and containing one hundred and sixty acres, together with the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and also all our estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower. To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever, and I, said Alvin B. Hatsings, do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that I will and my heirs, ex-

ecutors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful claims and demands of all persons whosoever.

In witness whereof we have hereunto set our hands and seal' this seventeenth day of November, A. D. 1882.

A. B. HASTINGS. [SEAL.]
HARRIET HASTINGS. [SEAL.]

Signed, sealed, and delivered in presence of us witnesses—
ED. W. BINGHAM.
LORANA HASTINGS.

STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 17th day of November, 1882, before me the undersigned, a notary public, in and for the said county and State, personally appeared the within named Alvin B. Hastings and Harriet Hastings, his wife. who are known to me to be the identical persons described in and who executed the within instrument, and acknowledged to
152 me that they executed the same freely and voluntarily for the use and purposes therein mentioned, and said Harriet Hastings, the wife of the said Alvin B. Hastings, on an examination made by me separate and apart from her said husband, acknowledges to me that she executed the same freely and voluntarily, and without fear, coercion, or compulsion from any one.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18, 1885, at 4:45 p. m. Requested of C. E. F. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitx, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from A. B. Hastings and wife to James B. Montgomery, as the same appears of record on page 457 of Vol. "I" of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder of Deeds in and for Cowlitz County, W. T.

(Endorsed:) Case 1813, Plfs. Ex. 8. Deed of Hastings. Nov. 22, 1887. John W. Cochran, stenographer, referee.

153 *W. Deed. Joseph A. Hughes to James B. Montgomery:*

Know all men by these presents, that Joseph A. Hughes, of Multnomah County, Oregon, in consideration of one dollar, *dollars* to him paid

by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following-described parcel of real estate, to wit: The west half of the northeast quarter and the west half of the southeast quarter of section thirty (30), township nine (9) north, range one (1) west, Willamette meridian, and being farther described as being in in Cowlitz Co., W. T., together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and rights of dower. To have and to hold the same to the said James B. Montgomery, his heirs and assigns forever, and said Joseph A. Hughes do covenant with the said James B. Montgomery, and his legal representatives forever, that the said real estate is free from all incumbrances, and that I will, and my heirs, executors, administrators shall warrant and defend the same to the said James B. Montgomery, heirs and assigns forever, against the lawful claims and demands of all persons whatsoever.

In testimony whereof I have hereunto set my hand and seal this 23rd day of June, 1883.

JOSEPH A. HUGHES. [SEAL.]

Signed, sealed, and delivered in the presence of:
J. OPPENHAMMER,
E. W. BINGHAM.

154 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 23rd day of June, 1883, before me the undersigned, a notary public in and for said county and State personally appeared the within-named Joseph A. Hughes, who is known *known* to me to be the identical person described in, and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my name and official seal the day and year last above written.

[L. S.] E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18, 1885, at 4:50 p. m. Request J. B. Montgomery. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds, in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from Joseph A. Hughes to James B. Montgomery as the same appears of record on page 458, of Vol. I, of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitz Co. W. T.

(Endorsed:) Case 1813, plfs. Ex. 7. Deed of Hughes Nov. 22, 1887, John W. Cochran, stenographer, referee.

155 *Warranty dedd. Robert J. Dooling to J. B. Montgomery:*

Know all men by these presents, that Robert J. Dooling, of Multnomah County, Oregon, in consideration of one dollar to him paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever, the following-described parcel of real estate, to wit: the west half (½) of northeast quarter (¼), and the east half (½) of northwest quarter (¼), of section thirty, township nine (9) north, of range one, (1) west, Willamette meridian, and being further described as being situate in Cowlitz County, Washington Territory, together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also my estate, right, title, and interest at law, and equity therein or thereto, including dower and right of dower, to have and to hold the same to the said James B. Montgomery, his heirs and assigns forever, and I, said Robert J. Dooling, do covenant with the said James B. Montgomery, and his legal representatives forever, that the said real estate is free from all incumbrances and that I will and my heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever against the lawful claims and demands of all persons whatsoever.

In witness whereof I have hereunto set my hand and seal this 23rd day of June, A. D. 1883.

[L. S.] R. J. DOOLING.

Signed, sealed, and delivered in the presence of—
LEWIS PARK.
ED. W. BINGHAM.

156 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 23rd day of June, 1883, before me the undersigned, a notary public in and for the said county and State, personally appeared the within named Robert J. Dooling, who is known to me to be the identical person described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.] E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18, 1885, at 4:50 p. m. Request J. B. Montgomery. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds, in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from R. J. Dool-

ing to J. B. Montgomery, as the same appears of record on page 459, of Vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex-officio Recorder for Cowlitz Co., W. T.

(Endorsed:)—Case 1813. Plfs. Ex. 6, deed of Dooling. Nov. 22, 1887. John W. Cochran, stenographer. Referee.

157 *W. Deed. Mark Woods to J. B. Montgomery.*

Know all men by these presents, that Mark Woods, of Multnomah County, Oregon, in consideration of one dollar, *dollars to* paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns, forever, the following described parcel of real estate, to wit: East half (½) of southwest quarter (¼), and northwest quarter (¼) of the southwest quarter (¼) of section eighteen, (18) township nine (9), north of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory; together with the tenements, hereditaments and appurtenances thereto belonging, or in any wise appertaining; and also all estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower, to have and to hold the same to the said James B. Montgomery, his heirs and assigns, forever; and said Mark Woods *or* covenant with the said James B. Montgomery and his legal representatives forever, that said real estate is free from all incumbrances, and that he will, and his heirs, executors, and administrators shall, warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever, against the lawful claim and demand of all persons whosoever.

In witness whereof I have hereunto set my hand seal this 23rd day of June, A. D. 1883.

MARK WOODS. [SEAL.]

Signed in presence of—
GEORGE W. WISNER,
E. W. BINGHAM.

158 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 23rd day of June, 1883, before me, a notary *b*ublic in and for said county and State, personally appeared the withinnamed Mark Woods, who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18th, 1885, at 5:15 p. m. Request C. E. Forsythe. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct dopy of a deed from Mark Woods to James B. Montgomery, as the same appears of resord on page 460, Vol., "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor, and ex-officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 5. deed of Woods. Nov. 22, 1887. John W. Cochran, stenographer. Referee.

159 *J. J. Meagher to James B. Montgomery.*

Know all men by these presants, that J. J. Meagher, of Multnomah County, Oregon, and unmarried, in consideration of one dollar *dollars* to him paid by Jmaes B. Montgomery, does hereby grant, bargain, and sell, and convey to said James B. Montgomery, his heirs and assigns, forever, the following described parcel of real estate, to wit: The northeast quarter (¼) of section thirty four, township nine (9), north of range one (1) west Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory, together with the tenements, hereditaments, and appurtenances thereto belonging, or in anywise appertaining; and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower, to have and to hold, to the said James B. Montgomery, his heirs and assigns, forever; and I, said J. J. Meagher, do covenant with said James B. Montgomery and his legal representatives forever, that the said real estate is free from all incumbrances, and that I will, and my heirs, executors, and administrators shall, warrant and defend the same to said James B. Montgomery, his heirs and assigns forever, against the lawful claims and demands of all persons whatsoever.

In witness whereof I have hereunto set me hand and seal this 27th day of June, A. D. 1883.

JOSEPH J. MEAGHER. [SEAL.]

Signed, sealed, and delivered in presence of—
N. C. BOYLE.
E. W. BINGHAM.

160 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on the 27th day of June, 1883, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named Joseph J. Meagher, who is known to me to be the identical person described in and who executed the within instrument and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In witness whereof I have hereunto set my hand and official seal the day and year last above written.

Filed Nov. 19th, 1885, at 11.30 a. m. Request of C. E. Forsyth. P. L. Reese, auditor.

[L. S.] E. W. BINGHAM,
Notary Public for Oregon.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds, in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from Joseph J. Meagher to James B. Montgomery, as the same appears of record on page 418 of Vol. 1, of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitx Co., W. T.

(Endorsed:) Case 1813, plfs. Ex. 4, deed of Meagher, Nov. 22, 1887. John W. Cochran, stenographer, referee.

161 *W. Deed. J. J. Noonan to J. B. Montgomery.*

Know all men by these presents, that we, J. J. Noonan and Lizzie Noonan, his wife, of Multnomah County, Oregon, in consideration of one dollar *dollars* to us paid by James B. Montgomery, do hereby grant, bargain, sell, and convey, to the said James B. Montgomery, heirs and assigns forever the following-described parcel of real estate, to wit: The southeast quarter (¼) of section eighteen (18), township 10 north, of range six west, of Willamette meridian, and further described as situated in Wahkiakum County, Washington Territory.

Together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all our estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower, to have and to hold the same to the said James B. Montgomery, his heirs and assigns forever; and we, said J. J. Noonan and Lizzie Noonan, do covanant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances and that *qw* will and our heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever against the lawful claims and demands of all persons whosoever.

In witness whereof we have hereunto set our hands and seals this 26th day of June, A. D. 1883.

J. J. NOONAN. [SEAL.]

Signed in presence of—
E. W. BINGHAM.
J. N. SCRIBER.

162 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on this 26th day of June, 1883, before me, the undersigned, a notary public in and for said county and State, personally ap-

peared the within-named J. J. Noonan, who is known to me to be the identical person described, and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily for the use and purposes therein mentioned.

In testimony whereof I have hereunto set my hand and official seal the day and year last above written.

[L. S.]

E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 19th, 1885, at 5:10. Request of C. E. Forsyth. P. L. Reese, auditor.

TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex-officio of deeds, in and for Cowlitz County, Washington Territory, hereby certify that the annexed and foregoing is a true, full, and correct copy of a deed from J. J. Noonan to James B. Montgomery, as the same appears of record on page 460 of Vol. I of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plf's. Ex. 3. Deed of Noonan, Nov. 22, 1887. John W. Cochran, stenographer, referee.

163 *W. Deed. Martin J. Conroy to J. B. Montgomery.*

Know all men by these presents, that I, Martin J. Conroy (unmarried), of Multnomah County, Oregon, in consideration of one dollar *dollars*, to me paid by James B. Montgomery, do hereby grant, bargain, sell, and convey to said James B. Montgomery, his heirs and assigns forever the following-described parcel of real estate, to wit: The northwest quarter (¼) of section twenty-six (26), township nine (9) north, of range one (1) west, Willamette meridian, and being further described as situated in Cowlitz County, Washington Territory. Together with the tenements, hereditaments, and appurtenances thereto belonging or in any wise appertaining, and also all my estate, right, title, and interest at law and equity therein or thereto, including dower and right of dower, to have and to hold the same to the said James B. Montgomery, his *his* heirs and assigns forever, and I, said Martin J. Conroy, do covenant with the said James B. Montgomery and his legal representatives forever that the said real estate is free from all incumbrances, and that will and my heirs, executors, and administrators shall warrant and defend the same to the said James B. Montgomery, his heirs and assigns forever against the lawful claims and demands of all persons whomsoever.

In testimony whereof I have hereunto set my hand and seal this 26th day of June, A. D. 1883.

M. J. CONROY. [SEAL.]

Signed in presence of—
E. W. BINGHAM.
J. N. SCRIBER.

164 STATE OF OREGON,
County of Multnomah, ss:

This certifies that on the 26th day of June, A. D. 1883, before me, the undersigned, a notary public in and for said county and State, personally appeared the within-named Martin J. Conroy (unmarried), who is known to me to be the identical person described in and who executed the within instrument, and acknowledged to me that he executed the same freely and voluntarily, for the use and purposes therein mentioned.

In testimony whereof I have *have* hereunto set my hand and official seal the day and year last above written.

[L. S.] E. W. BINGHAM,
Notary Public for Oregon.

Filed Nov. 18, 1885, at 5:20 p. m. Request of C. E. Forsyth. P. L. Reese, auditor.

STATE OF WASHN.,
TERRITORY OF WASHINGTON,
County of Cowlitz, ss:

I, P. L. Reese, auditor and ex officio recorder of deeds in and for Cowlitz County, Washington Territory, hereby certify that the annexed copy and foregoing is a true, full, and correct copy of a deed from Martin J. Conroy to James B. Montgomery, as the same appears of record on page 461, of vol. "I," of deed records of said county.

Witness my hand and county seal this 29th day of December, A. D. 1886.

P. L. REESE,
County Auditor and ex officio Recorder in and for Cowlitz Co., W. T.

(Endorsed:) Case 1813. Plfs. Ex. 2. Deed, Nov. 22, 1887. John W. Cochran, stenographer, referee.

165, 166 UNITED STATES } Case 1813.
vs.
BUDD & MONTGOMERY. }

Before Allyn, J., Vancouver, W. T., Nov. 22nd, 1887.

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167 Case 1813.

THE UNITED STATES
vs.
DAVID E. BUDD AND JAMES B. MONTGOMERY.

*B*efore his honorable Frank Allyn, judge. At Vancouver, W. T., Nov. 22nd, 1887.

John W. Cochran, agreed upon by all parties as stenographer to take the testimony and report the same as referee to the court. He was then sworn.

Hon. Wm. H. White for plaintiff.
" B. F. Dennsion and
" R. Stott for defendants.

By WM. WHITE: Defendants admit the first paragraph of the plaintiff's amended complaint, which reads as follows: "This action is brought under and by authority and direction of the Attorney-General of the United States."

(The U. S. attorney then called all the witnesses on behalf of the U. S. Government, and they were sworn by the clerk of the court.)

JAMES A. MUNDAY, called and sworn as a witness for plaintiff, on direct examination testified as follows:

By Mr. W. H. WHITE, U. S. attorney:

Q. State your name, age, and your place of residence.

168 A. My name is J. A. Munday; my age, 44 years; my place of residence, Vancouver, Washington Territory.

Q. What official position, if any, do you hold?

A. I am special agent of the General Land Office.

Q. How long have you held that position?

A. Since July, 1885.

Q. Where have you performed your duties since that time?

A. In the four land districts, viz, of Vancouver, Walla Walla, North Yakima, and Spokane Falls chiefly.

Q. In this Territory?

A. Washington Territory.

Q. What knowledge or experience have you had in examining the lands of Washington Territory?

A. I have had a very general experience during that time in examining the lands of Washington Territory, and especially in the timber regions of Vancouver district.

Q. During that time how many thousand acres of land, quality of land, have you examined in ascertaining the character and quality of the land?

A. I have examined many thousand acres of land in the Territory in this district of timber land, twenty or thirty thousand probably.

Q. What was your business before you came to Washington Territory?

A. My business had been that of editing a newspaper; I had also been engaged in the manufacture of staves and cutting of timber for that purpose.

169 Q. From what country did you come to Washington Territory or State?

A. I came from the State of Kentucky, county of Davi'ss.

Q. What had been your experience or knowledge of lands before you came to Washington Territory?

A. Well, I had some experience in my youth in farming, and later in life in the surveying and division and allotments of lands, as master in chancery, and still later in timber lands, the cutting and manufacture of staves.

Q. How generally have you observed and noticed the farms, farming lands in what is known as Vancouver land district of Washington Territory?

A. I have observed them very generally and carefully.

Q. Do you know J. B. Montgomery?

A. I do.

Q. When did you first get acquainted with him?

A. (Here witness leaves his chair and gets his letter book to refresh his memory as to date.)

Q. I don't want the exact date.

WITNESS. I want to be accurate; the early part of September, 1885.

Q. Do you know David E. Budd?

A. I do.

Q. When did you first become acquainted with him?

A. About the same time.

Q. Where was David E. Budd and J. B. Montgomery residing when you first became acquainted with them?

A. Residing in Portland, Oregon.

170 Q. Where have they resided since you became acquainted with them?

A. In the same place.

Q. Are you acquainted with the following tract of land: S. E. ¼ sec. No. 12, in T. No. 9 N., R. I W., W. M.?

A. Am I acquainted with the tract?

Q. Yes, sir.

A. I am.

Q. State when you first became acquainted with it, and the circumstances, what you went there for, who was with you, and when it was.

A. I went to that tract of land in the early part of June, '87, with B. F. Ivy, R. S. Carvine, and Jacob Tippeny, and examined the tract, going over each forty.

Q. State how you made that examination particularly?

A. I began at the S. W. corner of sec. 6, T. 9 N., R. I E., of the W. M.; chained south half a mile to the quarter post between section 7, T. 9, R. I E., and sections 12, T. 9 north, R. I W. From that point we chained south forty rods.

Q. You made that memorandum you are looking at at the time?

A. I did. Then west 160 rods; we returned to a point 20 rods from the west boundary of that quarter section and chained south 40 rods; we also chained 40 rods further south; from that point we chained east 120 rods; we then chained south 20 rods, and walked due west through this quarter section to a trail that ran through the chain near the west boundary.

Q. Got through?

171 A. Got through and crossed back through that claim.

Q. Who was with you on that occasion?

A. I stated in the beginning.

Q. I will ask you if they accompanied you through *the* all the various courses and directions you went through that claim?

A. They did.

Q. What, if any, appliances did you have for making an examination of the soil?

A. I had with me a small hoe, you might say a grubbing hoe.

Q. How frequently, and at what depth, was the soil examined?

A. It was examined every 20 rods on that course, and frequently at other points on the course; on or near the courses.

Q. How was the examination made, and who made it?

A. I dug into the soil myself, and the examination of the soil on the surface and the timber was made by the whole party.

Q. Did you ever return to that land after that?

A. I returned to that land with Thomas E. McGuigen.

Q. Go on and state when and what you did when you went back that time?

A. Well, I reached the land then by a trail going north from the old McGuigen place, and began chaining through it at a point 40 rods north and 20 rods east of the quarter post on the southern line of sec-

172 tion 12.

Q. When was that?

A. That was a few days after the first examination.

Q. What appliances did you have with you for testing, looking at the soil?

A. I do not think I had any implíment for digging into the soil specially on that occasion.

Q. What did you do toward examining the soil on that occasion?

A. I carefully examined the soil wherever it was upturned by fallen trees or wherever it was in view, but frequently by digging into it with a stick or kicking away the leaves with my foot.

Q. Who was in company at that with you, you say?

A. Thomas E. McGuigen.

Q. Anyone else?

A. No one else.

Q. What about streams upon that land and water springs?

A. There is a stream running through that land, one stream that seems to be permanent or perennial, and then there is a spring very near the southern boundary.

Q. What is the size of this stream; what course and direction does it run through the land?

A. As to this spring I will explain, I did not pursue the stream to its source sufficiently for to determine positively. It is on this tract of land. The spring I refer to crossing the trail near the south boundary.

173 As to the stream, that was a small stream, according to my recollection. I do not find a memorandum of it. It was a small stream only a few links wide.

Q. What time of the year was it you were there?

A. That was in the early part of June.

Q. Tell us what the nature and character of that soil was on that piece of land.

A. Well, the soil was generally a clay loam; it had the appearance of good soil in many places; in many places somewhat dark, and looked like good soil.

Q. How did that soil compare with the same character of land in that neighborhood on the surrounding claims?

A. It compares very favorably with other land in that neighborhood. It is similar to much of the other land, and similar to much that is in cultivation. It has the appearance of somewhat darker than some other lands in cultivation.

Q. What other lands there in cultivation are similar to that land?

A. There is some land on Mr. Dixon's place.

Q. What Dixon?

A. J. W. Dixon; apparently similar as on Mr. Carmine's, Mr. Carlson's, and a number of other places there.

Q. These gentlemen you have named, where do they live?

A. They live in the immediate region of Silver Lake, a very short distance from this claim.

174 Q. How was the lay of the land on this 160 acres?

A. The surface was rolling in most places gently, and in other places some moderately steep grades.

Q. What was the character of the undergrowth on that land, if any?

A. Well, the undergrowth on the NE. 40 was mostly small fir and cedar and hemlock trees. On the NW. 40 there was small firs, cedar, vine maple, fern. That was near the boundary between the two. In the NW. quarter vine maple, huckleberry, soft maple, fern, and brake—a species of fern that grows in that country. On the SW. 40 there was underbrush, huckleberry, skookum wood, brake, and salalle. On the SE. 40 maple, skookum wood, huckleberry, rose bushes, salalle, Oregon grape, and brake. The undergrowth was generally of the character found on hill lands in that country, so far as I have observed.

Q. What have you observed relative to the crops raised on this land in that vicinity? You have spoken of Carmine's and other persons you have named there, which you say was similar to this land. What have you observed relative to the crops—the productions of these lands?

By Judge DENNISON (att'y for defendants). I object, because it is irrelevant and immaterial.

175 By the COURT. Proving character of these lands by crops on similar lands?

By Judge DENNISON. Some other lands.

By Mr. WHITE, U. S. att'y. Similar lands.

By the COURT. It depends how far off the lands are shown to be about the same; the inference is about the same.

By Mr. WHITE. Same lands.

By the COURT. He said it favorable compares with the adjoining lands in the comparison of the lands.

By Mr. WHITE. If anything, better than the other.

By the COURT. A little darker.

By Judge DENNISON. I understand.

By the COURT. How far off?

A. One of the farms mentioned is about two miles away, the others are across the lake.

Q. Go on and state the nearest farm—state how far it is.

By Judge DENNISON. I want the fact noted we take an exception to the admissibility of that evidence as being irrelevant, immaterial, and incompetent. (Exception was allowed.)

(The original question was read to the witness.)

WITNESS. I have observed good crops growing on some of these lands. On Mr. Dixon's place I noticed some fine-looking wheat. He had some samples of wheat from some of his hill land which had the appearance of being no richer, if as rich, as these lands, and that the wheat was large and fine.

176 By Mr. WHITE. Q. Go on and describe. You say large and fine. Tell the court the size of it, the heads, the quality, and how thick it was on the ground.

A. Well, it stood very thick on the ground, a good deal of it was about breast high, the stalk was strong, and the growth was abundant.

Q. How about there having been any appearance of any artificial manuring or adding to the soil of that land?

A. I saw no evidence of that kind and heard of none.

By Judge STOTT (for defense). I object to what he heard of.

(Objection overruled, to which ruling of the court said counsel for the defense here and now excepts.)

(Exception allowed.)

By the COURT. State just what you saw.

By Mr. WHITE. Q. As to any productions growing on this land that you saw.

A. I heard——

Q. Give the other tracts of land you speak of—any other than the wheat you saw. State anything you observed there.

A. I saw a good growth of vegetables on Mr. Carmine's place.

Q. Same kind of land?

A. Similar land in appearance.

Q. What kind of soil?

A. Dark soil, I noticed. Then I saw some potatoes there. I noticed some good fruit trees. I did not specially notice anything else. I have seen a great deal of good vegetation on other places still further away, where the soil seemed to be similar to this.

177 Q. Are you giving the nearest farms to this land under cultivation?

A. I am giving the nearest I have observed.

Q. How about fruit trees on that land?

A. The fruit trees on Carmine's place looked well.

Q. The same on other places?

A. On Mr. Dixon's they looked healthy and well.

Q. That the same kind of land?

A. Similar in appearance, except a trifle lighter in color, perhaps; some rocky formations whereever rock appeared.

Q. What was the class of other vegetation you saw; what did it consist of on similar lands?

A. Very abundant grass over most that was cleared.

Q. What kind of grass?

A. Some orchard grass and some of the native grasses; matters of which I am not familiar with.

Q. Timothy and clover?

A. I saw some fine timothy of Dixon's place.

Q. What was the character of timber on this 160 acres of land in controversy?

A. Well, there is a good deal of good fir timber on that tract, some cedar, a little hemlock, some soft maple, and alder, however smaller, and could hardly be classed as timber.

Q About what quantity of fir timber to the acre did you observe on it, the quarter section you was over, as being merchantable fir timber?

178 A. I didn't make any definite attempts on fir timber. The fir timber on many portions of the claim is abundant and good.

Q. Recall the appearance of that kind of land and your general knowledge of what timber is, and give an estimate of what you think is fair.

A. Well, I remember now that I measured afterwards in passing through that claim—passing over the trail—I stopped and measured what I supposed to be a sample acre. I have not got my memorandum here and can not state the number of trees I counted on that acre.

Q. You got that memorandum some place?

A. I have in my other memorandum book I laid aside.

Q. Can you find it and produce it?

A. I will.

Q. What did you observe in the way of improvements on this 160 acres of land, if any?

A. There was a small log cabin of the SW. 40 of this claim on the prairie, and there was remnants of a rail fence near the cabin, were the only improvements I saw. There were some evidences that the ground had been turned over a little.

Q. What did you notice about that cabin as to its age, as to recent improvements, or were they old improvements?

A. Well, it seemed to have been there for some time, several years, perhaps, when I saw it.

179 Q. What did you observe about the cabin as to cultivation of land, as to whether it had ever been cultivated?

A. I saw some marks of cultivation some marks; that is, the ground had been stirred.

Q. About how much—what would you suppose that cabin originally cost that was put there?

A. I could not tell; I had no experience in building that sort of a house. It was about in appearance—about like cabins built by settlers when they begin their settlements ordinarily. As to its value I do not know.

Q. Well, describe the cabin.

A. It was a log cabin about 12 x 14 square, I suppose, and the general height of log cabins.

Q. Any chimney or anything of that kind?

A. I didn't look very close to make an observation of the cabin; there were men with me who knew all about it, had seen it previously, knew more about it than I did.

Q. You were speaking about prairies. How about the openings on that 160 acres; describe it.

A. The opening at that point was, altogether, including the large and small openings, which were separated by a small skirt or point of timber, was from 12 to 15 acres I think on that claim.

Q. What kind of land did you call that?

A. That was good land, mostly dark clay loam, with occasionally some small gravel or rock; very little however.

180 Q. What was it covered with; what kind of vegetation?

A. It was covered with tall fern mostly, and some rose bush.

Q. Mr. Munday, if the trees and stumps were removed off this 160 acres of land what proportion of it could be plowed and cultivated?

A. A large proportion of what I traversed could be plowed and cultivated; I judge the greater part.

Q. Give us the number of acres on the whole 160.

A. Judging from what I saw I should say 120 to 130, and possibly more.

Q. How about this land as to being broken and stony?

A. There is a little broken and stony land on it, but not much.

Q. About how much broken and stony land on this 160 acres?

A. Broken and stony land was so scattered it would be difficult to make a definite estimate about that; there was one or two deep draws in the land, and there was places where stone came to the surface, a few places difficult to plow, some of them they were not of sufficient extent to interfere with cultivation of the tract, of making a good farm there anywhere I saw. The stones are not so abundant on that tract as on some of the tracts there that are in cultivation, as instance Mr. Dixon's, as far as I saw the two in going over them.

Q. What was the character of the stone you saw; describe it, what it was?

181 A. It was scattering stone; basaltic rock apparently, mostly small.

Q. Now, can you tell me the number of acres that you saw was broken and stony in the 160 acres of land so as to render it unfit for cultivation—render that number of acres unfit for cultivation?

A. Well, I have stated that there was 120 or more that could be cultivated, suited for cultivation; the balance of the 40 acres, a good part of that I think might be cultivated with great care, but precisely how much I could not say without making an estimate from my notes.

Q. That 40 acres you spoke of would be unfit for cultivation because broken and stony?

A. I wouldn't say all would be unfit for cultivation; I should judge a part.

Q. A large part of the 40?

A. Yes, sir.

Q. For what reason?

A. Some deep draws and some stone coming to the surface; appearing on the surface. Without going through my notes and making an estimate of the grades I took I of course could not be accurate about it.

By the COURT: What section you still talking about?

A. That is the S. E. quarter of section 12, T. 9 N., R. I. W.

Q. Same one you commenced on?

A. Yes, sir.

182 By Mr. WHITE:

Q. How about the land being cut up with ravines?

A. There is very little of it cut up with ravines.

Q. How about the surface of said land being too rough for cultivation?

A. The surface is not too rough for cultivation generally.

Q. How about said land being unfit for farming purposes?

A. Not unfit for farming purposes, if opened for that purpose.

Q. What was that land chiefly valuable for?

A. Well, that land in the present condition of that country is chiefly valuable for agriculture.

Q. Did you ever have any conversation with David E. Budd relative to this tract of land?

A. I did.

Q. When and where?

A. I think it was in the early part of September I talked to him.

Q. What year?

A. In September, '85, in the city of Portland, at his place of business.

Q. What did Mr. Rudd do there?

A. I found him there in a stock stable, I think it was; he was running there.

Q. Did you have any conversation with Mr. Montgomery about this tract of land, Mr. J. B. Montgomery, the defendant here?

A. I did about the same time, about this and other tracts, subject to similar entries.

183 Q. About how long was that after the Budd conversation you had this conversation with Mr. Montgomery?

A. The conversation I had with Budd was on Saturday, and this was the succeeding Monday I talked with Mr. Montgomery.

Q. State in detail your conversation with Mr. Budd.

A. I asked Mr. Budd about this timber tract.

By Mr. STOTT. I object to that conversation on the part of Mr. Budd.

By the COURT. You object to admissions the defendant, Mr. Budd, has made.

Judge STOTT. No, sir; anything Mr. Budd made.

By the COURT. Isn't he a defendant?

Judge STOTT. They do not charge he had an interest in this controversy.

By the COURT. He has no interest in this property?

Judge STOTT. None whatever.

By Mr. WHITE. Patented to him?

Judge STOTT. It is also alleged in complaint he had sold it to Mr. Montgomery.

By the COURT. If it is admitted that Mr. Budd has sold to Mr. Montgomery, I do not think the admissions of the original owners would be good as against the present owners.

Mr. WHITE. Then read the complaint to the court.

By the COURT. It changes my view of the case.

Judge STOTT. Further along they say Mr. Budd had conveyed to Mr. Montgomery this land.

By the COURT. This is in the light of a conspiracy. That is the effect of this bill.

184 By Mr. STOTT. The declarations of one conspirator after the conspiracy has expired is not taken as against the other even in a criminal case.

By the COURT. I think that is proper. (The objection is, it is immaterial and incompetent as against the defendant Montgomery, for the reason that it appears from the allegation in the complaint that Budd has no interest in the controversy and is a mere nominal party to the suit. The objection is overruled; to which ruling of the court said counsel for defendants here and now excepts. The exception is allowed. The original question was read to the witness.)

A. I asked Mr. Budd about this timber land claim in controversy; he said he had taken it up for his own benefit, had not sold it to anybody, but still held it; that he was not sure he had ever seen this tract of land, but he had once gone to the neighborhood for that purpose; said he would state that under oath, but was too busy just then to do so; he went away and I waited for him to return; he repeated those statements, but refused to make affidavit; he said, however, he would come over on Monday and give me a full statement about that whole matter.

Q. Over where to?

A. To Vancouver.

Q. What day was this conversation?

A. That was on Saturday.

Q. At what place?

185 A. In Portland, at Budd's place of business.

Q. Who was present?

A. No one present except myself and Mr. Budd.

Q. What date?

A. Early in September.

Q. What year?

A. In 1885. That was the date as nearly as I can give from the memorandum I have; I have other memoranda that will enable me to give with absolute accuracy desired.

Q. Who commenced the conversation?

A. Mr. Budd did not come over on the next Monday as he promised; Mr. J. B. Montgomery did come to my office on that day.

Q. What did he say?

A. He talked about those timber-land claims of his at length. He urged the legal view that these timber lands were liable to entry under the act, where it was heavily timbered and valuable for timber, and that that was true, whether it was fit for cultivation after it was cleared or not. He construed the act as meaning to put this timber land in the market as timber lands wherever the timber was valuable and abundant; that was about the tenor of his conversation, and we talked about these Silver Lake lands, and then about Oregon lands, comparatively as wheat lands after they were cleared, generally about these lands he had been entering. I asked him about Budd, asked him what was the matter with Budd, that he should have gone off as he did and made the statement he did, and

186 he remarked just generally, but indifferently, "O, well, Budd didn't understand about that—about the statement he made in that regard."

Q. Did he say anything about Budd having sold the land, if you recollect it?

A. He stated that in response to my inquiry about Budd, stating he still owned the land. I said how is it about Budd still claiming this land; he said, "O, Budd didn't understand, that is the reason he said that or did that;" some such conversation, that indicated Mr. Budd was clear off the record.

Q. In that conversation did you give the full conversation with Mr. Montgomery? Did you tell him what he done relative to examination of records of these lands, and the quantity he had taken under the timber act he had claimed?

A. I didn't tell him about the quantity. I referred to the timber lands around Silver Lake, lands generally he had caused to be entered under the timber act those investigated by Mr. Stubbs and those under investigation by me were the lands subject of that conversation.

Q. About how much quantity of land?

A. Over ten thousand acres in all.

Q. Any subsequent conversations and doings of Mr. Montgomery relative to these lands talked about?

A. Mr. Montgomery I asked—I told him then that it was not my business to debate theories of law, it was my business to ascertain the facts with regard to these fraudulent entries, and if he had any statement of facts to make I wanted to take it, and proposed to take his state-
187 ment then. He said he would be over again; I believe he said the next day, and would give me a statement then. The next day he did not come, but Judge James K. Kelley, of Portland, came over and we talked at length about it.

Q. Did Mr. Kelley state what he came for?

A. He came representing Mr. Montgomery, and he urged that the effect of the law was that timber lands, where heavily timbered and difficult to clear, were subject to this timber act. I asked him what he did with that provision in the law that said they must also be unfit for cultivation, and he intimated, just indifferently, that he did not understand; that is, do anything but qualifying the other version in the law; some such answer as that. He was making an argument for his client on that subject, and a plausible one, not stating any fact relating to timber lands. I told him while it was interesting to debate these questions of law, I was ascertaining the facts, and wanted him or his client to furnish me facts rather than anything else; he said he had no facts to furnish.

Q. Did you have any conversation or talk with Mr. Montgomery subsequent about these timber lands about Silver Lake?

A. I met Mr. Montgomery on Portland and Vancouver steamer, and we entered into conversation about these lands, and he talked in somewhat similar terms as he had talked before about the lands generally, about his construction of the law, and their comparative value as agricultu-
188 ral lands after they were cleared, and the value of agricultural lands generally—these timber lands in Washington Territory and Oregon. As to lands in Washington Territory, he said, according to my con-

struction of the law—I had told him what I thought; that was, lands which were fit for cultivation after the timber was cleared away were clearly agriculture lands in the meaning of that act, and not subject to entry under the act—he said, "According to your construction there would be a large per cent of the lands in west Washington that would be agricultural lands." I told him there would. He mentioned 80 or 90 per cent. I asked him what per cent of his timber land claims would be agricultural, according to that construction, and he said, "Still more." Then we went off into some conversation about wheat production of Oregon, the resources of Washington, and so on. By that time the boat had reached Vancouver.

Q. Subsequent to that did you have any conversrtion with him or hear him talk about them at any place; was there anything done relative to these lands?

A. At the local land office in Vancouver we had some conversation about these lands. There was a large number of lands of the same sort entered in the same way, by the same agencies, that were under hearing there at the land offices.

By Judge DENNISON: We object to all this outside talk, unless it is confined to this case.

189 By the COURT. I think you are going into a lot of conversation that will have little effect.

By Mr. WHITE. This is only a finger of this gigantic conspiracy.

By the COURT. Go on with the talk with Mr. Montgomery.

(Formal objection, irrelevant, incompetent objection overruled; to which ruling of the court said counsel for defense here and now excepts.)

(Exception allowed.)

WITNESS. He was at the land office contesting or defending the contest instituted by the Government for the setting aside of a large number of entries of the same kind of land, made by the same agencies and for the same purposes, and similar in all their main features to this tract of land, and while there we fell into conversation, rather into a dispute about the railroad lands lying in the Silver Lake region. I asserted that these timber land claims were entered immediately near and adjacent to his railroad lands, which covered most of the odd sections in that timber-land lake region. He said that was not so. I said to him he knew it was so; at any rate at the time these entries were made. He said "Yes," and I asked him if that was not true? He said that was true, he did help hold those odd railroad-land sections at that time.

Q. What was Mr. Montgomery doing there?

A. He was there defending——

(Defendants object; objection sustained.)

190 Q. Who were the witnesses and who were used to prove up in these other land cases; give the names of them?

(Defendant's counsel object as immaterial, incompetent, and not the best evidence.)

By Mr. WHITE. I have got the best evidence here. I propose to prove that about the time, and at the time, that this land was taken up, that J. B. Montgomery conceived a plan of getting an unlimited quantity of land from the Government of the United States under the act of June 3rd, 1878, mentioned in the complaint in this action, and which act applies to

Oregon, Nevada, California, and Washington Territory. I believe that J. B. Montgomery hired a numerous number of persons to enter land, among whom was this man David E. Budd, in this same case, and that he employed Robert Rockwell and George F. White as professional witnesses to examine that land and to testify to the quantity and that under the same appliances as set forth here *here* in this case, using the names of different persons, he took up a large quantity of land through various persons, and that about that time these persons together with David E. Budd, in this case, made deeds for nominal considerations conveying all this land to Montgomery, and those deeds were placed on record in the county where the land was situated. I will offer in evidence in connection with this witness' testimony to establish that fact, certified copies of those
191 deeds, certified copies of the propositions in the land office in those other cases. I will further follow it up by evidence showing that every one of the other cases which had not passed patent were subsequently canceled for fraud, and Mr. Montgomery was there in these other cases, where patent had not yet issued, resisting the cancellation of the entries as granted to the original applicants. That is what I propose to prove.

By the COURT. That this land was entered in that way, as part of the land you referred to?

By Mr. WHITE. As part of that conspiracy. I think I can show your honor the authorities are numerous, that in order to establish an act of these men, those included in that conspiracy, you can show similar acts; where a party at one time deserted and went over to the enemy and came back, he was subsequently tried for it, and that matter was a question in issue before the court. It was allowed to show the previous desertion, and on the same principal it ought to be allowed in this case, and this is one part of a general great plan to recover these lands. It is alleged in this complaint here that White acted in the interest of these parties and this man Rockwell, and under this agreement with Budd, in each case made a particular agreement, he was acting as Mr. Montgomery's agent, and I have certified copies of deeds here.

By Judge STOTT. I do not admit that counsel can produce au-
192 thorities to go to the extent he claims. He may produce authorities to the extent in reference to forgeries and forged instruments, and in reference to having received stolen goods, but I defy him to show where, when an act is criminal in its nature, is criminal in itself, that he can show another act of separate and distinct crime, having been committed, as tending to show the crime charged. Now, if this is true, as he alleged, here was a separate distinct crime in the selection, purchase, and obtaining title of each of these distinct tracts. He has just as much right to show in the case of larceny or murder, another and distinct crime having been committed by the defendant for the purpose of showing the guilt of the defendant of the crime charged, as he would in this case, just as much. He now undertakes to show the transactions in reference to all these alleged actions, and opens up all these different cases, if they are cases, and in place of being called upon to defend acts and transactions connected with the entry and purchase of the David E. Budd tract, we are called on to defend all of these tracts in one suit. If that is true that you could have brought suits in reference to all of them in one case, instead of three, you could have brought them in in one.

By Mr. WHITE. Suits were brought in the order of their examination.

By Mr. STOTT. They undertake to infer because there was some transaction, in reference to some other tracts, that therefore there was a
193 conspiracy or agreement between Budd and Montgomery to purchase these lands by Budd for Montgomery; they do not claim Budd had anything to do with these other transactions, that Montgomery had to do with some other individuals, and therefore he must necessarily have had to do with this transaction prior to his purchase from Budd.

By Mr. WHITE. The same witnesses used to prove the character of land in this case was used in all other cases. Mr. Rockwell and White and identical testimony and all a part of this same conspiracy, fraudulent testimony on their part.

By Mr. STOTT. It comes to the purpose I stated without taking more time. They undertake to show the commission of a crime, call it conspiracy or what you may, by an attempt to show some other crime. It is not one transaction.

By the COURT. The rule as to the admission of evidence with reference to fraud or fraudulent conspiracy is very different from what it is in ordinary offenses, such as murder, arson, larceny, or the like; the purpose here is, as I understand it, is to show that there was a combination on the part of several persons, a number of persons, to enter a great many pieces of land; that this was entered in connection with these other great many pieces; I think for that purpose it is clearly within the law, and sustained by the authorities, and it would be great error to rule in any other way; how otherwise—suppose for a moment that this is true—how otherwise could it be done? Surely if you hold down to the mere incidents
194 of one transaction, it may be perfectly fair; that is to say, it would not be any combination or conspiracy in one of these persons to have entered one of these pieces, but might be conspiracy to enter a great many pieces of land. This being entered with other pieces might be fraudulent.

Whereas if such be not the facts it might be proper to have been entered by any one of these persons. In that way fraud can be shown and only in that way, if there is any fraud about it. The objection is overruled.

To which ruling of the court, said counsel for the defense here and now except.

By Mr. WHITE:

Q. How many of these other entries did Mr. Montgomery appear to defend in the land office?

A. Well, he appeared either by himself or by his attorneys, I think, in about sixteen cases that were under hearing there, the others having been already canceled.

Q. Can you give the numbers of those cases—numbers of the entries?

A. I can give the numbers and, I think, the locations.

By COUNSEL FOR DEFENSE. We enter a general objection to it all.

Objection overruled and exception taken by said counsel; exception allowed.

By the COURT. The mere abstract fact of Mr. Montgomery defending an hundred other cases doesn't weigh very heavy in this one case.

195 Answer. I can give you the numbers of about thirty of these claims, where the deeds were made directly to Mr. Montgomery, from this bundle you have here.

Q. Of those made to other parties for his benefit?

A. I will have to go through the memoranda to find them.

Q. I mean Rockwell and White.

A. The claims referred to as made by instrumentalities similar to those used in regard to this claim where deeds have been made directly to J. B. Montgomery.

By counsel for defense. We object to all his statements of instrumentalities similar.

WITNESS (continuing his answer). I stated before how many claims he had taken by these same instrumentalities.

By the COURT. This class?

A. I propose to explain by removing instrumentalities.

(Defendant's counsel move to strike out.)

By the COURT. State the fact that is stricken out.

By Mr. WHITE:

Q. What claims? Have you got the claims there, certified copies from the land office?

A. I have got the claims I referred to in a former answer. In order to identify them as the same claims in that answer is the reason I used that phraseology.

Q. These are the claims you refer to?

A. Yes, sir; I was going to state them at length, in detail, one by one.

196 Q. Can you give the numbers?

A. Numbers, tracts, and witnesses. Yes, sir.

Q. Give the numbers of entries in the Vancouver land office district under this act of Congress.

A. Well, the following claims are those referred to and conveyed directly to J. B. Montgomery: No. 2033, the one in controversy; Nos. 2037, 2045, 2018, 2024, 2172, 2025, 2034, 2035, 2036, 2046, 2047, 2048, 2049, 2050, 2077, 2078, 2079, 2131, 2132, 2133, 2134, 2148, 2146, 2147, 2149, 2152, 2153, 2156, 2157, 2158.

By Mr. WHITE. We offer these certified copies of these entries from the General Land Office in Washington.

By the COURT. I think they may go under the ruling just made, too.

(Counsel for defense objects on ground incompetent, immaterial, irrelevant, and not admissible evidence in this case. Objection overruled; to which ruling of the court said counsel here and now except. Exception is allowed.) (The exhibits are lettered from "A to Z," inclusive, and "A 1, A 2, A 3, A 4, A 5, and A 6," and are dated and filed of record in this case.)

WITNESS. If the court please I will add to that statement. I stated the deeds were made directly to Mr. Montgomery. There are one or two instances the deeds having been executed as far as the record shows, and the statement would be correct as made to him.

By counsel for defense. We object to the evidence of the witness
197 stating as to what he just said, and move that the evidence be stricken out; and a further objection offered by Judge Dennison,

counsel for defense, that some of these papers are made to land Montgomery does not own nor never did; never claimed to own.

By Mr. WHITE. We offer next in evidence in connection certified copy of deed of to J. B. Montgomery.

(Counsel for defense object for the same reason.)

By the COURT. Objection is made to all this testimony, and the same ruling and exception allowed.

Deeds offered.

Certified copy deed of from Michael H. McMannus to J. B. Montgomery. (Same objection, same ruling, and same exception.)

Certified copy of Martin J. Conroy to J. B. Montgomery. (Same objection, same ruling, and same exception.)

Certified copy of deed from J. J. Noonan to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from J. J. Meagher to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from Mark Woods to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from Robert J. Dooling to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from Joseph A. Hughes to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from Alvin B. Hastings and wife to J. B.
198 Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from William A. Freeman and Belle Freeman, his wife, to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from John H. Steffen to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from G. W. Taylor to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from Charles H. Hammons to J. B. Montgomery. (Same objection, same ruling, exception.)

Certified copy of deed from Hamilton Knott and wife to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from Alexander Lothian to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from James L. Jewett to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from W. D. O. Ragan to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from Charles C. Cornell to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from Zeba M. LaRue to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from G. M. Misner & wife to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from J. B. Misner & wife to J. B. Montgomery. (Same objection, same ruling, same exception.)

Certified copy of deed from Allen A. Unkless to J. B. Montgomery. (Same objection, same ruling, same exception.)

199 Certified copy of deed from John Mangs to J. B. Montgomery. (Same objection, same ruling, same exception.)

These exhibits are all properly dated, and numbered from one to twenty-two inclusive, and filed of record in this case.

By Mr. WHITE. I will introduce before I close my case also certified copy of deeds from parties, these men named in this complaint, to J. B. Montgomery, by showing about the same time the nominal consideration.

By the COURT. They show what they do show.

By Mr. WHITE:

Q. Mr. Munday, you stated something about a colloquy you had with Mr. Montgomery about the time of these entries; you stated to me you called it a colloquy. I want the facts about this?

A. It was on the occasion of this hearing where the question of ownership of other timber lands similarly entered to the one in controversy, the question of ownership of railroad lands adjacent to those timber lands, was brought up. I stated that he owned other timber lands adjacent to and near the entry that was in controversy, which was a similar entry to this, and that he owned railroad lands adjacent to these timber lands, and he denied it. I told him he knew it was so, at any rate, at the time these entries were made, and asked him if that was not true. He said that was true, he did own them.

200 Q. What was going on then, what was taking place?

A. Hearing in one of these same timber land cases.

Q. Where at?

A. At the Vancouver land office.

Q. That was a conversation direct between you and Mr. Montgomery?

A. Yes, sir.

Q. Well, what other conversation did you ever have with Mr. Montgomery showing his connection with these lands? I call your attention to the time when you began the first investigation in the land office relative to these lands, an investigation to set aside these entries, and Mr. Montgomery appeared here. Any other conversation with him showing his connection with these lands, in these statements?

A. In that conversation?

Q. I mean the first conversation about the continuance of the cases; anything of the kind.

A. Well, when those cases were continued——

Q. State the conversation you had with J. B. Montgomery about these hearings; that is what I want to get at about the continuance of the hearing of these same lands?

(Defendants enter the same objection.)

WITNESS: When he first came to the land office.

By the COURT: Unless it is connected under this land, it will go in under the same rule.

By Mr. WHITE. I want it to go in there to show Mr. Montgom-

201 ery is a party connected with these lands. He was representing these lands at the land office, as we claim.

By the COURT. If the conversation had reference to other lands than these lands in this suit, then it is proper under the ruling that the court had already made.

(Counsel for defense objects. Objection overruled, to which ruling of the court said counsel here and now excepts.) (Exception allowed.)

WITNESS. The entries that were in controversy were some of those where the record has just been filed, and when he first came to the land office he insisted on a continuance of those hearings, and the hearings were continued from the first date fixed up to the "11th of April."

Q. You just give your conclusion; I want the conversation you had with Montgomery about this continuance, as near as you can recollect; not the conclusion, but what you said to him and he to you about it personally.

A. He stated that he was not ready for trial; that the season had been late; he could not prepare, could not get the cases prepared. He did not have time to examine all these lands and a number of thing of that sort, and insisted on continuance. He was entitled to continuance at the latest; his lawyers were there also insisting, at least one of them.

Q. What time was that; when was that?

A. That was in March, 1887.

Q. Do you know this man Robert Rockwell?

202 A. I do not.

Q. Do you know George F. White?

A. I do.

Q. Did you have any conversation with George F. White relative to this entry?

(Defendant's counsel objects as incompetent, immaterial; Mr. White is not a party to this suit.)

By Mr. WHITE. A party to this conspiracy; the man who made this proof.

By the COURT. How is he brought into this suit?

By Mr. WHITE. If your honor please, these people have got to go before the land office, and have got to furnish certain proof that these lands are of the character mentioned in the act. When furnished, that proof of entries goes on in duplicate to Washington, and patents issue on that proof.

By the COURT. It seems to me, while I propose to make this ruling as I believe this law to be, I do not propose to go any further. Here are a number of people that have make proofs in all these various cases. You mean to show the admissions made by all or any of these people in these different cases?

By Mr. WHITE. No; that aint the question. Robert Rockwell and Geo. F. White were the witnesses who appeared to prove the character of these lands. Rockwell and White are the witnesses who appeared to prove the character of this piece of land.

203 By the COURT. Yes; all right.

By Mr. WHITE. And this piece of land; these are Montgomery's lands; exactly the same deed of David E. Budd; made at the same time; these deeds executed for the same consideration; acknowledged before the same officers; taken in the same manner; everything showing it is the same transaction and was made for this piece of land. We claim, your

honor, that Robert Rockwell and George F. White were the emplyees of James Montgomery, the defendant in this case, to furnish the proof to the land office—the fraudulent proof—necessary to get these lands, and Rockwell and White appeared there, and that they were part of the conspirators.

By the COURT. You mean to say that Rockwell and White——

By Mr. WHITE. Are part of the conspirators.

By the COURT. Appeared there and assisted in making the proof involved in 1813?

Mr. WHITE. Yes, sir.

By the COURT. If these other people appeared in the other cases, their admissions would not have anything to do with it.

Mr. WHITE. Admissions of White and Rockwell, I think, have.

By the COURT. What they said about this section of land is proper.

By Mr. WHITE. I offer in evidence, in addition, certified copy of timber-land application and proof of David E. Budd for the SE. quarter sec. 12, T. 9 N., R. 1 W., W. M. [no objection to that], properly marked as an exhibit.

By Judge DENNISON. There is no allegation that these entries are false or fraudulent.

204 Mr. WHITE. Of course they are.

By Judge DENNISON. I would like to see the allegation. My objection is this: When they have made an allegation in this complaint, or any other, that any other land has been fraudulently obtained by Montgomery than the land in this suit we will meet it; but they have alleged that this piece of land was fraudulently obtained by Montgomery, and let them prove it.

By the COURT. They are trying to do it.

By Judge DENNISON. But not by proving other tracts of land have been so obtained.

By the COURT. Go on and show what he said about these lands.

By Mr. WHITE:

Q. What did George F. White say about his employment by J. B. Montgomery in procuring these lands?

(Defendant's counsel object as incompetent, irrelevant, and because the alleged declarations of the party that had no interest is a mere narrative of what occurred long prior, if it was a conspiracy, and was a declaration of what happened before.

The objection was overruled, to which ruling of the court said counsel for defense here and now excepts. Exception allowed. The original question read to the witness.)

A. I interviewed George F. White. He said he examined the timber entries on section 22, T. 10 N., R. 1 W., and J. B. Montgomery

205 paid him for so doing; that he did not remember examining the timber entries on section 30, T. 9 N., R. 1 W. These statements were made in response to questions asked him about these lands, particularly and generally. He did examine part of section 24, in same township; thinks it was the two northern quarters; don't know who he examined them for, but was paid for it by J. B. Montgomery. Montgomery made the contract, if any was made, for the examination of these lands. He stated that he was examining timber lands and reporting to

Montgomery, but did not examine all for Montgomery. There were other parties he examined for—different parties. He remembers some of these parties, but could not give their names.

By Judge STOTT:

Q. Was this testimony reduced to writing at the time?

A. I made a memorandum as he made answers.

Q. Wasn't it reduced to writing in the land office?

A. No, I read from memoranda I made at the time of interview and just as he made the statements; I am giving the whole memorandum.

By the COURT. The witness is reading from a memorandum tablet, he made; if you have no objection, I have not.

Mr. WHITE. Refreshing his memory?

By the COURT. You look at a thing and refresh your memory and put it aside, and you must remember it is an original fact afterwards.

Mr. WHITE. Did you make an entry at the time in the memorandum book of that entry read and put in evidence here?

206 A. Yes, sir, I am; I can make statements without memorandum.

By the COURT. That is the way to do it.

Q. Do that and go ahead?

A. He at first said he did not know anything about entries on sec. 18, and afterwards said he examined those entries, and that Montgomery paid him for that. He then said he examined an entry on the southwest quarter of section 6, and T. 9 N., R. 1 E., and Montgomery paid him for that. Then he mentioned some other entries which I can easily recall by looking over the memorandum.

Q. Look at the memorandum and refresh your memory, and shut your book and state what he says, if you can?

A. Well, he said he did not remember the date of the contract; that was made, or the arrangement was made, between him and Montgomery for examining these lands, and he had examined other lands for Montgomery in Wakiakum County, and did not remember the tracts particularly. He had examined tracts taken up in the name of J. B. Montgomery, and E. W. Bingham; and I do not remember who he said paid him for that.

Q. What did he say about Budd's lands particularly?

A. He specified E. R. Budd's lands, and spoke of the other claims of David E. Budd and other claims generally. He did not refer by name to David E. Budd claim, but referred to those lands immediately around the lake in which he had appeared as witness.

Q. How far is Silver Lake from this body of land mentioned in this complaint?

207 A. Well, without looking at the plat, I think about a mile and a half.

Q. Did Mr. White state how long he had been in Mr. Montgomery's employment, working for Mr. Montgomery, who was with him?

A. He referred to the examination made by himself and Rockwell and the party that was with him during the fall of '82 and summer of '83.

Q. Who did he say paid him for the examination made by himself and Rockwell?

A. He said J. B. Montgomery paid him for a good many of them.

Q. Do you know where this man Rockwell is?

A. I do not.

Q. Try to find him?
A. I tried to find him, but did not succeed.
Q. Do you know where George W. White is?
A. I do.
Q. Where?
A. He is in this court room now.
Q. Do you know where J. B. Montgomery is?
A. He is in the court room.
Q. Mr. Munday, do you know what has been the result of the examination of those questions you had before the land office?
(Objected to by defendants as immaterial.)
By the COURT. The result is shown in the records.
By Mr. WHITE. Not in these papers. I want to lay the foundation that he has received instructions about it.
By the COURT. Is it not a matter of record?
208 Mr. WHITE. Yes, sir.
By the COURT. He can answer if he knows the result.
(Counsel for defense objects, objection overruled, to which ruling of the court counsel for defense here and now excepts. Exception allowed.)
A. Most of those entries have been canceled.
(Counsel for defense move to strike out as incompetent.)
By the COURT. Only ask if he knows the result.
WHITE. Have you any communication relative to that?
A. I have.
Q. Will you produce them?
A. I have at the land office; I can't produce them now, but can at a future time.
Q. What was the general character of those lands; did you examine those lands mentioned in those entries?
A. I examined several of those tracts subject to those entries.
(Defendants counsel object as immaterial what character of land is described in those other documents. The objection is sustained, to which ruling of the court counsel for the Government here and now excepts.)
(Exception allowed.)
Mr. WHITE. We propose to show the character was the same general character that this land was; there was no patent ever issued for those, no patent issued by the General Land Office. No appeal has ever been taken from that decision.
By the COURT. I do not think that can be done.
209 By Mr. WHITE. It is a part, one of the acts in the great conspiracy.
By the COURT. I can not see the connection of it.
By Mr. WHITE. I make the offer and take exception to the ruling of the court excluding it.
Q. Do you know where David E. Budd is at present?
A. I saw him not long since in Portland.

Cross-examination by Judge STOTT:

If the court please, we move to strike out all the evidence that has been offered as declarations of White and Budd, and all the testimony with reference to these lands, not the lands described in the complaint for the rea-

sons that they are immaterial, incompetent, declarations, and evidence. I do not wish to argue the question, but place the matter squarely on the documentary evidence or declarations of White and Budd.

By the COURT. I do not think I shall change the ruling I made; the motion is disallowed. (To which ruling of the court defendants' counsel here and now excepts.)

(Exception allowed.)

Mr. WHITE.

Q. Mr. Munday, you say you have been engaged as special agent in the examination of these lands for about two years, or nearly so; a year and a half?

A. A little over two years.

Q. Two years last July?

210 A. You may say two years last August. I referred to the time I had been special agent. I did not get here until the latter part of August.

Q. You say you have been engaged in farming, manufacture of staves, and master in chancery, in dividing lands in common?

A. Yes, sir.

Q. I will ask you as a farmer and stave-maker and master in chancery if you ever had anything to do in lands like these lands prior to your coming to Washington Territory?

A. Not precisely like them.

Q. Did you ever have anything to do with fir lands?

A. I had nothing to do with fir lands prior to coming here.

Q. Had you ever been in a country where fir grew, prior to your arrival in Washington Territory last August?

A. Well, I had never been in a fir country, that was said to produce fir timber, at any rate.

Q. All you know about fir lands is what you have learned since your arrival here?

A. That is all.

Q. Now, you say you first became acquainted with this land in 1887, this particular piece of land?

A. I think the first time I was on that was the spring of '87, this particular claim.

Q. In March l'st?

A. In March, I think; yes.

Q. Now, you say that there is a dark clay loam?

A. I might add to that, I had been on other lands in the imme-

211 diate neighborhood prior to that time.

Q. You say this land has a dark clay loam?

A. I say some of it.

Q. How deep is that dark clay loam?

A. I dug into the soil in a number of places, and I found it to the depth of 8 or 10 inches; generally, as far as I dug. I dug in 8 or 10 inches, sometimes deeper; most places I found the soil at full depth of the place I dug.

Q. This clay loam you speak about is immediately on top of the ground, or some distance down?

A. Sometimes there is a little light vegetable mould over this loam which can not be called soil proper.

Q. You say that after you got through the vegetable mould you found a dark clay loam on that piece of land?

A. I did not find very dark clay loam on most of it; I said I found it darker on some parts of that claim than on some other hill lands I had seen cultivated there.

Q. Isn't it true about it that on top of that land there is a decayed vegetable matter and stuff made of decayed ferns, &c.?

A. Yes, sir; decayed vegetable.

Q. And when you got below that, isn't it gravel and clay, or rock and clay?

A. In most places clay loam.

Q. Is there some gravel?

A. There is some gravel on that prairie; there is a little in
212 sight on the path that goes through the prairie.

Q. Isn't there a good deal of gravel on that prairie?

A. Well, I think not; I do not think there is any there that would interfere materially with cultivation.

Q. How much ground is there in that prairie?

A. How much gravel?

Q. How much land in that prairie?

A. What, the extent of the prairie?

Q. Yes, sir.

A. That is between twelve and fifteen acres.

Q. Did you measure it?

A. I saw it measured by a surveyor and took a memorandum of the measurement.

Q. Is there 12 or 15 acres of that prairie on this tract?

A. I think there is at least 12 acres.

Q. Does this tract take all the prairie?

A. No.

Q. Will you swear there are over seven acres of that prairie on this tract?

A. The part that is on that tract, on this tract, was carefully measured, and I am very confident it contained over ten acres.

Q. Who measured it?

A. Mr. Ivy was there; a surveyor and a chain man chained across it and measured the distance or length of it, was measured north
213 and south; then the distance across was measured at different points and the average taken of that distance, and from that I propose to estimate the quantity in the prairie. I proposed to have Mr. Ivy do it.

Q. Because the prairie was irregular?

A. The timber grew irregular around it.

Q. What is the character of the undergrowth, or whatever is growing on that prairie; what is it?

A. Well, there is fern, rose bush, that is the chief large growth on the prairie, clover, some clover, and some other minor growths.

Q. You notice any salalle?

A. On the prairie?

Q. Yes.

A. I do not think I noticed any immediately on the prairie; I believe along that old fence there, I think there was some salalle there, as well as I remember.

Q. Wasn't it a very scrubby salalle on that prairie?

A. I think not; medium size, what I noticed.

Q. How much wheat would that prairie grow to the acre, if you plowed it?

A. I have had no experience in wheat culture on fir lands; I do not know.

Q. How many bushels of potatoes would it grow to the acre?

A. I suppose it would grow as much as is generally grown on those hill lands. What quantity I do not know.

Q. You do not think it would grow blue grass very well, such as you grow in Kentucky?

214 A. I don't know; I should say it would grow blue grass; it grows splendidly white clover.

Q. You say you saw very fine crops on Mr. Carmines place; was that this place?

A. I have been to Mr. Carmines' place several times in my experience in this Territory; passed there and casually noticed his farm as I went by from time to time without knowing dates at all.

Q. Did you notice his crops this year?

A. This year, I do not think I observed his crop this year.

Q. Whereabouts from his barn was this crop of grain you spoke of, you saw on Carmines' place?

A. I did not refer to seeing grain on his place.

Q. What was it?

A. I saw potatoes, good fruit trees, and garden grass.

Q. How far was that from this barn?

A. The orchard, just about 200 yards from his barn.

Q. Do you know whether he manured with anything there or not?

A. I do not.

Q. How far was this from where you saw grain growing on the Dixon place?

A. Just west of his house, same ridge the house is located on?

Q. How far from his barn?

A. A short distance, one hundred yards perhaps.

Q. What did you see growing there?

215 A. Saw wheat, chiefly; some other products I did not observe, specially; I went to get a sample of the wheat.

Q. When was that?

A. I think that was in June.

Q. This year?

A. Of '87, yes.

Q. Is his place as high above the level of that lake as the tract in controversy?

A. It is not.

Q. Isn't it true his land is down on a lower level—lower bench?

A. Yes, sir; where his house is.

Q. Where he farms?

A. Where his open land is it is on a lower level than this place.

Q. Down near the lake?

A. Near the lake.

Q. How much above the lake is this tract of land?

A. The tract in controversy?

Q. Yes.

A. Why, I could not say; I had no instruments for measuring the elevation of the lake or level.

Q. Isn't it considerably above the lake level?

A. Well, yes; it takes quite a rise to go up there; no, it is not very high, however; the elevation is not very great.

Q. How high above the lake is Dixon's place?

216 A. Where Mr. Dixon's house is I should say not more than fifty or sixty feet, on the ridge above the lake entirely, out of anything like bottom land.

Q. Does Mr. Dixon live there and farm that tract?

A. He did when I was there last.

Q. Don't you know as a matter of fact he has gone away and abandoned that place?

A. I do not.

Q. How large a field of wheat did you ever see in that country; how extensive?

A. I never seen any very extensive fields out there. The piece of wheat I refer to was not large; one acre, perhaps—just a rough guess.

Q. Who in that immediate section of country makes a living farming?

A. I suppose most of the settlers there.

Q. Which one among the settlers?

A. I don't know as to their affairs; I have no reason to doubt the great majority of the settlers there make their living.

Q. How large a field did you ever see them cultivate there in wheat or potatoes, or anything else?

A. Never seen a very large field in cultivation. Not a very large quantity of land opened on most places.

Q. If there was enough raised there to support a family by sale or use?

A. I suppose so; I saw no other means of supporting a family,

217 except what grows out of the soil; some of them have large grass fields; very many are extensively engaged in the way of making grasses.

Q. The chief value of this land in its present condition for farming purposes?

A. I say, it present its chief value, at the time I examined it; at any rate, its chief value is for agricultural purposes.

Q. How much is this piece of land in controversy worth for timber an acre?

A. I am not familiar with prices of real estate out there.

Q. You do not know very much about its chief value?

A. I know it is more valuable for agricultural land than timber. You can't put timber into market now by any route now that I know of. You can raise on that tract of land enough to maintain life, even in its present condition.

Q. Have you got a good market there for agricultural products?

A. There is a good market on the railroad at Castle Rock; somewhat difficult of access across the lake. To go from Mr. Carnine's, it is nearly as accessible as Mr. Dixon's; a mile and a half or two miles to go.

Q. Isn't the route just as good to get timber out there as agricultural products, wheat or potatoes?

A. I think not.

Q. Isn't it down hill there, this tract of land, to Tootle Lake?

218 A. Yes.

Q. This stream runs down into the lake?

A. I think so; I didn't trace it; that is my impression.

Q. It is down grade?

A. Yes, sir.

Q. No difficulty in getting timber from this tract to the lake?

A. The topography is favorable to transportation of timber.

Q. Down to the lake by the lay of the land?

A. By the lay of the land.

Q. How much grain could you raise to the acre on this piece of land in its present condition?

A. I think an average crop could be raised on that prairie, if broken up and put in, and properly tilled, a good average crop for this country.

Q. On the balance you could not raise anything?

A. Not while covered with timber; that is, any ordinary crops.

Q. How much would it cost an acre to remove the timber so as to be cultivated?

A. Good labor involved in removing timber; it is heavy and difficult to remove. What would be the cost I couldn't tell; have had no experience.

Q. Wouldn't it exceed the value of the land for agricultural purposes?

A. I think not. If any market develops for the timber, the timber taken off would more than pay the cost of clearing.

219 Q. That is, if you could sell the timber?

A. Whenever there is access there for the timber, the timber would pay the cost of clearing off when such routes are opened up for the timber that grows on the Cowlitz River.

Q. After the sale of timber, would it not, outside of this, to open a trail?

A. There is some on the lower side of that place. There is considerable quantity of alder, vine, maple; where barberry and alder grow it could be cleared much more easily than fir land.

Q. This is all among the fir, this alder and vine-maple?

A. There is some fir through that part of the section, and some places where it don't stand so thick.

Q. Isn't there a very good, fine, large quantity of saw timber on that tract?

A. Yes, sir.

Q. How far does Dixon live from this tract?

A. I think about two miles, probably.

Q. Does his place border on the lake?

A. Yes.

Q. How far does Carnine live from this place?

A. Well, he must live four or five miles. He lives on the other side of the lake; he lives on the west side of the lake; this place and Dixon's are on the east side.

Q. You say that Dixon's place is similar to this land?

A. It is much similar in appearance; it looks a good deal like the same soil.

220 Q. Did not Dixon take a timber-land claim alongside of it, but you made no objection to his claim?

A. He did not.

Q. Didn't some one take it up and sell it to him?

A. There was one taken up—40 acres—long before, as to which I have never been instructed to make an examination of any kind, and never have made any examination.

Q. You never troubled him?

A. I have never made any examination of that tract of land, and it was not taken up by Mr. Dixon.

Q. He bought it of some party?

A. I do not know anything about Mr. Dixon's business transactions. I understood that he claimed it; had conditional purchase of it.

Q. That is right alongside of this piece you saw the crops growing on; adjoining it?

A. No; I think not. I think there is a tract lying between his home place and this timber-land entry—this 40 acres.

Q. All in the same section?

A. I believe it is. They are the same section; adjoining; not far away.

Q. You said in your direct examination that from 120 to 130 acres of this land could be plowed, if cleared?

A. I made that as a general estimate of land that could be brought into cultivation if cleared.

Q. The balance was rather stony?

221 A. I made simply a general estimate; there is a good deal of stone on the balance; good proportion of stony land, or rocky land; I made no accurate estimate of the topography to get at it.

Q. Did you find any place where stone cropped out to such an extent you could not plow on that tract?

A. I believe I found one or two small outcroppings of stone where I did think a plow could not run very well; I found occasional stones on the northwest 40 of this claim.

Q. You did not see any bluff or anything of the kind? where stone cropped out; a point?

A. I do not remember any bluff where there was outcroppings of any ledge of stone. I saw stone on the surface in the northeast 40, in some other places.

Q. Were there any canyons or ravines in this tract?

A. There was where that branch ran; there was in some places moderately deep hollows, where it would not be favorable to cultivation.

Q. Where you could not plow very safely?

A. I think so.

Q. Were there any smaller canyons putting into that?

A. There were occasionally draws or depressions.

Q. You call them draws or depressions; that is the same thing as a canyon?

A. No; a canyon is supposed to be deeper and larger than a mere draw or depression; and near that prairie there was a draw and small
222 stream, where just in the bottom of it or across the bottom of it would be difficult plowing for a short distance; some parts of it would not interfere at all, I think.

Q. This cabin you spoke of, did it have any evidence of having been used for any considerable length of time?

A. When I saw it it was rather dilapidated; an old growth of vegetation around it, which indicated it had not been used for several seasons; for two or three seasons.

Q. Had the appearance of some one having been there and abandoned the place?

A. At that time it was abandoned, and had not been occupied for one season. The growth of vegetation was almost unbroken when I saw it.

Q. Was there a roof on the house?

A. One part of the roof, perhaps none; almost none. It was not habitable; there was some remnants of the house scattered around there; the framework; the body of the house was still there, I think, unbroken.

Q. Log cabin?

A. An ordinary log cabin.

Q. Have the roof off?

A. My recollection of it was, the roof was nearly gone, or partially gone; at any rate, didn't have the appearance of being tenantable at the time I saw it.

Q. Any chimney?

A. I do not remember as to chimney; perhaps there was a chimney; I would not state positively; the men with me seen it time and
223 again, and knew its condition when the claim was taken up; I did not notice it.

Q. When did you see the cabin the last time?

A. I saw it in June this year.

Q. You saw it first in March?

A. I do not think I was there prior to June; I was over that country; I do not think I went over that claim, down that road, prior to June, when I went to examine it. I was by there several times.

Q. Along in June?

A. Yes, sir.

Q. Now, how much do you consider that cabin worth?

A. Well, in its present condition, it is almost valueless; worth nothing except for the logs that are in it; would not be estimated as of any value for a house.

Q. Didn't you in traveling through that country find a great many abandoned cabins?

A. Found a great many in my experience.

Q. Where people had gone on struggling for awhile and quit?

A. Found a great many abandoned cabins in the Territory of Washington.

Q. In that part of the country particularly?

A. I have seen several in west Washington, at any rate; I do not remember any great number in that immediate region.

Q. When was it you had this conversation with Mr. Montgomery about the continuance of those cases?

A. I think it was last March.

Q. Do you know what time in March?

224 A. About the middle or latter part of March.

Q Who was present and heard that conversation?

A. I think you were present.

Q. Who else?

A. Perhaps Mr. Bingham or Judge Kelley, I will not be certain about that; you were in there at different times; I do not remember who all were present on that occasion. I know one or the other of you were there representing him; the land officers were also present, of course.

Q. Just what did Mr. Montgomery say?

A. About the continuance?

Q. Yes, sir.

A. My recollection is he said he wanted the cases continued; the season had not been favorable for examining the land; saying he had to come all the way from Washington to attend to these cases; he wanted time; he had not had sufficient time.

Q. And you objected?

A. He insisted on a continuance. I had agreed with Judge Kelley——

Q. When was it you say you had a conversation with D. E. Budd?

A. I had a conversation with D. E. Budd on the 12th day of September, 1885.

Q. In what place?

A. At some place on Front street in Portland, which I supposed to be his place of business; said to be a sort of sale, stock stable.

225 Q. Was there any one else?

A. There was some other man poping about; no one present when the conversation took place.

Q. What time of day was it?

A. I think it was in the morning, perhaps 10 or 11 o'clock.

Q. Now, will you just begin and give the entire conversation?

A. Well, I called there and asked him about the claim and he told me he owned it; he had taken it up for his benefit. I asked him if he had ever seen the land. He said he could not be certain he had; he had been over in that country for that purpose. I believe he asked me if I wanted to buy the land, or anything of the kind. I told him no; I was inquiring about it officially; I wanted a statement, wanted to get at the facts in that case, and proposed to him to give me a statement of the facts. I asked him if he would verify this statement on oath. He said he would make a statement on oath, but he was busy and had to go down street for some business or other and did not have time. I told him I would wait for him. I did wait for him, and when he come back his statements were repeated. and he refused to make an affidavit, but told me he would come over on Monday and give me a statement, and so I left expecting him to call over the following Monday.

Q. He did not come?

A. He did not come; he told me also that the land was "in soak," that was his phrase, would not say anything else except it was in "soak."

226 Q. Said he was owner of it yet?

A. Yes, he told me first he owned that land; he had taken it up for his benefit. Then he told me after questioning him close about it, he said in fact the land is in "soak." I asked him how in soak, and he would not tell me. Then he promised to come over on Monday and give me a full statement about how it was "in soak," all about it; instead of coming, he dropped me a note, saying simply that the land——

Judge STOTT. The note is the best evidence.

By Mr. WHITE. Got the note?

A. I ain't got the note.

Judge STOTT. What did you do with it?

A. Filed it with my report.

Redirect examination by Mr. WHITE:

Q. The next day or next Monday Mr. Montgomery came in his place?

A. He did; yes, sir.

B. F. IVY, called as a witness on behalf of the plaintiff, having been duly sworn, testified as follows on direct examination:

By Mr. WHITE:

Q. State your name, age, place of residence, and occupation.

A. B. F. Ivy; 37 years; live in Cowlitz County at present time; county surveyor there.

Q. Cowlitz County, Washington Territory?

227 A. Yes, sir.

Q. How long have you lived in Cowlitz County, Washington Territory?

A. Something over three years.

Q. How long have you lived in Washington Territory altogether?

A. About six years, sir.

Q. What have you done during that time—what has been your business?

A. I was on the Sound; while I was there I was surveying, prospecting.

Q. What have you been doing besides surveying?

A. Since I have been in Cowlitz County I have taken a claim, and while not surveying I have been improving the claim.

Q. Do you know where Silver Lake is in Cowlitz County?

A. Yes, sir.

Q. How far is your claim from Silver Lake?

A. It is about two miles and a half.

Q. Are you acquainted with the S.E. $\frac{1}{4}$ sec. 12, T. 9 N., R. 1 W., W. M., in Cowlitz County?

A. I am.

Q. When were you there?

A. I was there the early part of June.

Q. Who were you with when you were there?

A. Mr. Munday, Mr. Carnine, Mr. Tippery.

Q. This Mr. Munday, the witness who just testified?

A. Mr. J. A. Munday.

228 Q. Carnine?

A. R. S. Carnine and Jacob Tipperry.

Q. What did you do to find this land?

A. We started from corner of section 6 on the meridian line, ran south to the quarter stake and south 40 chains, and then ran 40 rods still further south on this meridian line, then ran west through the north tier of 40's of this quarter section, running through the north tier of 40's 160 rods, then we turned and ran south, turned 40 rods and then ran south and went through prairie which we had measured as we passed through it so as to get dimensions as near as possible; after taking the meanders we ran south 80 rods, then ran east 35 chains—I think it was—or near that, then ran south; didn't chain any more after that; just ran a line back; run a due west line. Examined the land as we passed through it, soil and character of it.

Q. What did you do towards examining the soil; what was done by you there?

A. Well, Mr. Munday had a small hoe along, something he could dig down with, and he dug in a great many different places; by examining as we went through, seeing the depth of soil, and taking the measurement of it and character of it.

Q. State what that was; depth and character of soil.

A. We found it to be from 8 to 12 inches, and found a dark clay loam, and found some places—there was some places on this tract where there was surface rock, but very little gravel; there was in one or two
229 places we found gravel, principally surface rock, where there was any rock at all.

Q. What was the character of the vegetation on the land?

A. A portion of it had quite a little timber on it, fir, cedar, some hemlock; a portion of it had undergrowth of some kind; other places there was not so much timber, but fern, brake, salalle, such like as that you usually find in a country like that.

Q. Any other timber or undergrowth?

A. There was maple, vine maple, soft maple, huckleberry, rosebush, some dogwood, and cherry.

Q. What is the character of what growth of timber on lands that was agricultural lands, or that would produce crops, in that section of the country?

A. Well, we have considerable fir on all the lands through that country; fir and cedar, maple, both the soft and vine maple, alder, cherry, such things as that.

Q. What is the character of the soil, as being fit for agricultural purposes, that such as vine maple and brake, alder and rosebush, and salmonberry and such vegetation as that grows upon in this country?

A. Most of the land through that country, where the growth you speak of, where it occurs, is soil adapted to agricultural purposes.

Q. Does that kind of vegetation grow on any other than lands fit for agricultural purposes; will it grow on lands that are unfit by reason of it being sandy or gravelly, that kind of vegetation, such as vine
230 maple, soft maple, and brake, that we call the vegetation?

A. Brake, it is very seldom you find that on gravelly land; occasionally you find it through where there is considerable surface rock;

through that section of country there are places where there is quite a little surface rock.

Q. How about this vine maple, the river bottom lands, what is the growth that is generally on them?

A. Well, considerable of the bottom lands there has soft maple, quite a growth of soft maple, and some ash.

Q. Does vine maple grow on the bottom lands too?

A. Yes, sir.

Q. How about the soil; what kind of soil is required to produce such vegetation as vine maple, soft maple, and salmonberry?

A. Well, through that section of country there, it seems to be clay soil.

Q. What is generally in this territory, I am speaking of west of the Cascade Mountains; what kind of soil produces that kind of vegetation; what is the character of the soil?

A. The character of the soil through that section of the country there is principally clay, though I have seen this growth grow on gravelly land; not to any great extent.

Q. Describe what brake is.

A. What we call brake is a small something of the fern order; it is an evergreen, seems to be; grows up when burnt off; leaves a little stud in the ground.

231 Q. Bunches around like a cabbage head does it not?

A. Something similar.

Q. Well, what kind of land is required generally to produce cedar trees?

A. I have seen cedar grow on different kinds of soil, seen that grow where lands were gravelly, but as a general thing where cedar grows, it is considered to be good character of soil.

Q. How would this land compare with the lands you have taken up and upon which you live?

(Objected to as immaterial by counsel for defense.)

By the COURT. Where is his land?

By Mr. WHITE. About two miles from this land.

WITNESS. About two miles from the lake.

By the COURT. You mean to show he is cultivating his growing crops, if you can; show crops growing on this land. He knows the character of his own soil, and this soil if it is in there, in a radius of ten miles.

By Mr. WHITE. I am going to ask him what his soil is, whether there is any similarity.

By the COURT. He says this is good agricultural land, 10 or 12 inches dark loam.

By Mr. WHITE:

Q. How is your land as compared with that land, in kind and quality of soil?

A. I think that soil is good as the land I own.

Q. Is it the same kind of soil?

232 A. I think that is darker soil.

Q. Stronger land?

A. I rather think it is, as far as I have examined it.

Q. What crops would you say would grow on that 160 acres of land?

A. This is well adapted to grain, hay, potatoes, and such crops as is usually cultivated in this section of country.

Q. How is the lay of the land?

A. In the northeast 40 it is somewhat broken, but outside of that, the land is comparatively gently rolling. It is not to say—I would no tcall it broken land, if we were down to strict terms.

Q. You would not?

A. I would not call it broken outside of that one 40.

Q. If the timber and stumps were all off that land, how many acres of it would be susceptible of tillage?

A. I do not think there would be more than twenty acres that could not be cultivated.

Q. That could not be cultivated?

A. That could not be cultivated, perhaps there might be 20 acres that would not be suitable for cultivation.

Q. That would not be suitable?

A. Yes, sir.

Q. Is that 20 acres in all one body or scattered over the land?

A. It is principally in one portion of the quarter in this NE. 40 I speak of.

233 Q. What is it renders that so it could not be cultivated if the stumps were taken off?

A. There is a ravine runs down through it, and some surface rock.

Q. How would it do that portion where there is no rock, as to raising grass, such as timothy and clover?

A. I think grass would grow upon it.

Q. What would you say of this land as to being cut up with ravines?

A. There is only one ravine upon it of any considerable consequence, and that is on that 40 I speak of. There are some smaller ravines.

Q. Are there any streams of water upon it?

A. Yes, sir; a couple of small streams; there is one small stream near the corner of the quarter; I didn't measure it, I am satisfied that stream is on that 40.

Q. Spring, is it, or brook?

A. It seems to be a little brook very narrow through?

Q. Did you notice any of that land that was not covered with timber?

A. Yes, sir.

Q. How much?

A. Between 12 and 15 acres.

Q. What did you notice about that 12 or 15 acres; what was the character of the soil there?

A. It seemed to be a dark clay loam; it was covered principally with fern.

234 Q. Well, what was the nature of the growth of fern?

A. It seemed to be strong, healthy growth.

Q. To produce such growth of fern as that in this country, what kind of land does it require?

A. It usually grows on good land.

Q. Did you notice anything else on that piece of land?

A. On this prairie you speak of?

A. Yes, sir.

A. I noticed there had been a settlement there at one time; there seemed to be a cabin; the cabin was quite dilapidated.

Q. What did you notice about land having been cultivated, if any?

A. I think there had been a small piece of it been plowed.

Q. About what was the size of those improvements?

A. I do not think the cabin was larger than 12 x 14; about that size; I did not measure it.

Q. Roof on it?

A. I do not think there was.

Q. How long had that been there, do you suppose, from appearance?

A. It might been; seems though it might been six or seven years, something like that.

Q. About how much would it cost to put that improvement on there originally?

(Defendants object. We object to that as immaterial, what it cost originally.)

235 Mr. WHITE. I want to show what the improvements were on there when this man took it.

By the COURT. An old abandoned cabin would not be an improvement.

(Objection sustained.)

By Mr. WHITE. The law requires certain things to be done. It is in order to show that it has never been done.

By the COURT. This witness has shown that there was an old abandoned shanty there.

Mr. WHITE. When this man filed on this land that cabin was in good condition. I want to show what it cost to put it up at that time. I will take an exception to the ruling of the court, ruling out the value, or the cost of putting it there.

(Exception allowed.)

The COURT. I do not see where that cuts any figure at all.

Q. How about the surface of that land being too rough for cultivation?

A. I think it could be cultivated if the timber was off.

Q. Was it too rough for cultivation—the surface of that land?

A. A portion of it.

Q. Well, how much?

A. I do not think there could be over 20 acres.

Q. How many thousand acres of land in that section of country do you suppose you have been over—surveyed since you have been there?

A. I could not say, though I have surveyed considerable in the county over different townships.

236 Q. How long have you been county surveyor?

A. I was elected there three years ago.

Q. Been surveying ever since?

A. It would be three years next February, I think, since I took charge of the office.

Cross-examination by Judge STOTT:

Q. Been county surveyor for three years?

A. It will be next February.

Q. Isn't it a fact you qualified as county surveyor that you had to have land conveyed to you and conveyed it back since you qualified?

A. No sir.

(Plaintiff objects. Objection sustained.)

Q. Well, how far did you live from this place—this Budd tract?

A. About two miles.

Q. You never was on this tract except this one time, or was you there both times with Mr. Munday?

A. Yes, sir; I have been on this section before.

Q. I mean this tract; you never was on this SE. quarter of section 12 but the one time?

A. Not that I know of.

Q. Now you say this has a kind of underbrush growth that grows on good agricultural land?

A. Yes, sir.

Q. Now, what kind of brush grows on land in Washington Territory that is not good agricultural land?

A. The same growth I described will grow on rock and gravelly land.

237 Q. Isn't it a fact fir and maple, sometimes the maple that grows here in the wood, will grow on rocky, gravelly soil, or the hillside?

A. Sometimes the case.

Q. Then can you tell anything about the character of the soil; can you rely upon the character of the soil; to determine the character of the soil from the kind of underbrush you find on it?

A. Generally the case you can.

Q. What kind of soil do you say that is, good or bad?

A. I claim it to be good soil.

Q. Very good soil?

A. Yes, sir.

Q. Does good soil grow such tall fern?

A. Generally the case.

Q. Grows tall salalle?

A. Yes.

Q. Now what kind of salalle was on this place up there on that prairie?

A. I do not remember noticing salalle.

Q. Wasn't there a very little scrubby salalle growing over that prairie in places?

A. I do not remember noticing salalle on the prairie.

Q. If you should see a lot of short salalle growing in the opening like that, what would you expect to find in reference to the soil, good or bad?

A. It would be as to how long ago there had been a fire; something of that kind.

238 It had the appearance of recent fire there?

A. One place I noticed there had been a fire.

Q. How long before?

A. The year before I should say.

Q. If you found young salalle wouldn't you judge by that? You could tell whether salalle growing—whether the soil was good by its rankness?

A. Yes, sir.

Q. Did you notice anything about the salalle there?

A. I did on one portion of it.
Q. Where?
A. Rather on the NW. 40.
Q. Did you notice any gravel about that prairie?
A. Very little.
Q. Did you notice any?
A. I could not say there was any gravel there—there was some rock.
Q. Some rock?
A. Small rock, not gravelly, rough, broken up small.
Q. On top of the ground, rough?
A. Mixed in with the soil.
Q. Where the rock—what effect does fire have on that vegetable mould, fire enough to burn off the brush and timber?
A. I didn't see where the fire was where that rock was.
Q. What is the effect of fire on that kind of land in reference to this vegetable mould on top?
A. Where there is very much rock there is not very much soil.
239 Q. It will burn up all that vegetable matter?
A. Not always.
Q. How much did you say this land would cost to clear an acre of this land, take it on an average?
A. This land there, I think, could be slashed for five dollars an acre?
Q. Was that on the prairie?
A. No, sir; that was on the outside.
Q. Could be slashed, but would that clear it?
A. Get it in shape so you could seed it.
Q. How much would it cost, it so you could plow and plant any kind of agricultural product, such as potatoes, wheat, oats?
A. I should think a portion of it would cost twenty dollars an acre.
Q. How much of it could be put into cultivation for twenty dollars an acre?
A. Quite a little of it, I think, could be got in shape for seed.
Q. I mean to plow up; suppose you plan tpotatoes and wheat, that is the question.
A. Of course there are prairies there; would have nothing to do to fix them.
Q. Outside of the prairie how much could you clear any of it for, on an average; take an average acre of that 160 acres outside of the prairie?
A. To grub it all and take out the stumps entirely would be
240 a small proportion of it, but like you find in some localities where they are cultivating land, where stumps still remain quite a little.
Q. How much an acre?
A. Twenty dollars.
Q. How much would it be worth an acre in that condition for agricultural products?
A. I could not say, I am sure.
Q. Would it be worth twenty dollars an acre in that condition?
A. I should think so.
Q. Would it be worth any more?
A. I am sure I could not say.
Q. How long did you stay on that place at the time you visited it?

A. Part of two days: I am not sure but what I was there a part of three days, I believe.

Q. And you think there is some twenty acres of it too broken and rocky to cultivate?

A. Yes, sir.

Q. Is not more of it broken more or less besides twenty acres?

A. Broken I did not notice, being too much rocky to prevent it from being cultivated, it cleared off.

Q. You don't call it anything like a rolling piece of land; isn't it an uneven, broken piece of land?

A. The principal portion of it is rolling land.

241 Q. How about it being light or heavy timber?

A. A portion of it is heavy timber.

Q. Tall trees?

A. Yes, sir.

Q. How high?

A. O, usual height of fir trees; something like between 200 or 250 feet.

Q. How many of them to the acre?

A. Well, I could pick you out acres there, I suppose, there would be between thirty and forty trees.

Q. Ordinarily what would be the average?

A. Taking as an average, I would nit think over twenty, taken as a tract.

Q. How thick were they there; what was their diameter?

A. Some of them as much as four and a half feet I should judge.

Q. What would be the ordinary average?

A. The average, I do not think it would go ever three feet.

Q. Good saw timber?

A. Yes, sir, some of it; some of it seems to be a little scrubby.

Q. How much lumber would there be on an acre there? How much saw timber on the average acre on that place? Did you make any calculation or estimate?

A. No, sir; I did not make an estimate as to how many feet there would be, as a general thing.

Q. How much would there be in one of those trees, four feet

242 in diameter, you spoke of, two hundred feet high?

A. Where two hundred feet high a great many of them, you could only get a few saw logs on account of being knotty.

Q. Suppose you could use up to one hundred feet, as far up as it was good for logs, how much would it be?

A. I never made calculations on it.

Q. You did not take it into your examination there; didn't pay much attention to timber?

A. Was looking after soil.

Q. Soil only?

A. Yes, sir; principally.

Q. Did not look for rock?

A. Yes, sir.

Q. Or gravel?

A. I did.

Q. A good deal?
A. Yes, sir.
Q. You did not try to form in you mind whether that land was worth more for timber than farming purposes?
(Plaintiff objects.)
By the COURT. That would be a conclusion, I think, of the question involved here.

Redirect examination by Mr. WHITE:

Q. Tell us what the process is for clearing that kind of land for cultivation in this country; how they start in to do it generally?
A. Usually slash it down, go to work, cut timber down; after
243 it lays awhile they fire it, and generally burn the slashing, the rest they go to work and log it off.
Q. What do you generally sow when the burn gets over?
A. Sow grass.
Q. You saw that land after this burn had been over it; what would it do as to producing timothy and clover and hay?
A. I think it would produce very good.
(Defendants object.)
By the COURT. I do not see any objection to that.
(Objection overruled.)
Q. What kind of timothy and clover would it raise?
A. It would raise a very good quality.
Q. How as to quantity?
A. I suppose it would raise a ton and a half to the acre.

R. S. CARNINE, witness for the Government, having been duly sworn, testified as follows, on direct examination by Mr. White:

Q. Where do you live, Mr. Carnine?
A. Cowlitz County, Washington Territory.
Q. What part of Cowlitz County?
A. Near Silver Lake.
Q. How long have you lived there?
A. I have lived there with my family since the spring of '76.
Q. Are you a farmer?
A. Yes, sir.
Q. When you went there did you go on an improved farm or take up a farm?
244 A. There was a little improvement on the place.
Q. Are you acquainted with the SE. quarter sec. 12, T. 9 N., R. 1, W. of the W. M.?
A. Yes, sir; to some extent.
Q. When were you there?
A. I was there along the fore part of the month of June.
Q. What year?
A. Present year.
Q. How far is that land from where you live?
A. It is four or five miles; I can't tell without a calculation.
Q. Who was with you when you was there?
A. Mr. Munday, Mr. Ivy, and Mr. Tipperry.

Q. What did you do when you got there?

A. We ran through the land; to describe the directions we ran, I will not attempt; I took a memorandum on the ground there; it is at home; I was summoned away from home to this court; I helped to carry the chain, however, with Mr. Mundy and Mr. Ivy.

Q. What did you do about examining the land?

A. We had a small grub hoe along. Mr. Mundy digged into the soil in different places, about every twenty rods; sometimes oftener. We all examined the soil.

Q. What did you notice about the growth on that land; the vegetation?

245 A. Well, I noticed growth of fir, cedar, some hemlock timber, and undergrowth. I think Skookum wood, hemlock, cedar, young fir, some salmon brush, soft and vine maple, such undergrowth as grows over the most of that hill country.

Q. How would the soil on this land—the undergrowth on this land—compare with the soil and undergrowth on your land? The timber on your land you live on?

A. There is a great deal more timber on it; the soil I believe to be a better quality than the soil on my place naturally.

Q. What kind of vegetables and crops would this 160 acres—the soil on this 160 acres of land—produce in your opinion?

A. It would produce the crops usually grown in that country—wheat, oats, barley, potatoes, clover, and timothy.

Q. To what extent would it produce those kind of crops?

A. Well, that is a matter of opinion.

Q. Your opinion I want—you are a farmer there.

A. I suppose it, with thorough cultivation and average season, it would produce twenty bushels of wheat perhaps.

Q. To the acre?

A. Yes, sir.

Q. How many oats?

A. Double the amount—40 bushels.

Q. Potatoes?

A. Potatoes probable get one hundred and fifty, with thorough cultivation.

Q. Carrots?

246 A. I do not know.

Q. Turnips and cabbage?

A. I could not say; I think it would produce probable average crops.

Q. How about hay, such as timothy and clover?

A. It will produce better clover, perhaps, than timothy—a ton and a half to the acre; something like that.

Q. How about this land being cut up with the ravines—being stony?

A. Some stone on it—some ravines.

Q. How many, and what was the depth of them—the extent of them?

A. Well, there was not a great deal of the land that I saw stone on; I saw several patches what appeared to be surface stone, I think; two considerable ravines—to locate them, I can't.

Q. If the timber and stumps were removed off this land, how much of it would be capable of cultivation by plowing and harrowing?

A. I should think there would be about 120 acres of it that could be plowed.

Q. Would that 120 acres produce, if plowed and harrowed, land in that condition, in an ordinary state of cultivation, without adding anything to it by way of manures, in its natural state?

A. What would the entire 120 acres produce?

Q. I mean the average in that shape; I mean what kind of crops?

247 A. Well, it would produce average crops of grain, grass, and vegetables, I think.

Q. What was this land chiefly valuable for, in your opinion, situated as it is there, and everything?

(Defendant's counsel objects to that question. It has not been shown that he is an expert in regard to the value of timber, or to the quantity of it, growing on that land. He may be a judge as to farming lands.)

Mr. WHITE. It don't require an expert.

By the COURT. He has not shown there was any timber on the land.

By Mr. WHITE. Q. You can state the amount of timber on that land—state whether it was heavier than on his land.

A. Really, that is all I can say about it—fir, cedar, hemlock.

By the COURT. I do not think that question is proper. You may do it, and the other side may put in the same things, may have the same ruling, and their witnesses may show it is chiefly valuable for timber.

By Mr. WHITE. I take the court's ruling, and will not ask any other questions on it.

Q. What would you say as to that land being broken and stony?

A. There is two ravines on it, and some broken.

Q. How much of that land was broken and stony?

A. I would call it, generally, all the land rolling, some broken land on it, of course.

Q. Did you notice any clearing upon the land or any open spaces?

A. Yes, sir; there is an open space on it.

Q. Where is that?

248 A. I do not think I can locate this according to the survey. It is what has been known since I went to the country as the Doughty prairie.

Q. What amount of broken land there?

A. By the estimate, the line we ran through it, we estimated thirteen acres.

Q. Estimate the quantity, using your own judgment.

A. I judge about thirteen acres.

Q. You notice any buildings or improvements on this?

A. There is remnants of a cabin on it, I think.

Q. Did you notice whether any land had been cultivated about there?

A. There has been a piece of land cultivated there. I can't tell very much about it now. I saw it when it was in cultivation.

Q. Was this land so stony and broken as to be unfit for farming purposes?

A. I think not.

Q. Was you living there when that improvement was built there?

A. Yes, sir.

Q. Do you know who went there to build that improvement?

A. A man by the name of Doughty.
Q. Do you know when he built it?
A. I think it was put there in '76.
Q. Do you know when he left?
A. I do not exactly.
249 Q. Do you know why he left?
A. He told me——
(Defendant objects.)
By the COURT. We don't want the statement of the party.
Mr. WHITE. I propose to show this Mr. Doughty left that land; went there on that land supposing he had a homestead right; he discovered he had no homestead right and left for that purpose, and we make that offer to show by this witness Mr. Doughty's declaration at the time he left there.
By the COURT. If he knows why he left it; outside of what was told by the party, this is hearsay.
A. I do not.
Q. Do you know where Mr. Doughty is?
A. I do not.
Q. Is he in the country or not?
A. I think not.
By Mr. WHITE. I offer to show it, and objection is made. Court rules it out as hearsay and the Government excepts to the ruling of the court.
Q. Did you see the house when he was living there?
A. I was there.
Q. Did you see what he was doing there; this man doing there?
A. He was building a fence the last time I was there.
Q. Generally, what was he doing there?
A. Planting potatoes, slashing.
Q. About what was the value of his improvements when you went there?
250 By Judge DENNISON. We object, if the court please; the value at the time this application was made is proper?
By the COURT. It was seven years ago this entry was made. I do not know but that you may show by this party the condition at the time this entry was made?
By Judge DENNISON. We do not object to that.
By the COURT. I will let you show the value of it and all about it at the time this entry was made.
Mr. WHITE. I want to show what it was in '76, when he saw this man there at that time, and what kind of a building and nature of improvements on the ground at the time. I will stop at the nature of the improvements. We offer to show, in '76, that this witness was upon that land; that there was a man living there by the name of Doughty, with his family, cultivating that land as a farm, with improvements and house upon it costing at least ($150) one hundred and fifty dollars in value.
(Defendant objects. Objection sustained, and the Government excepts to the ruling of the court.)
By the COURT. The court rules it is entirely too remote; they may show the improvements, all about it at the time of the entry we are now investigating was made, or approximately near that time.

Cross-examination by Judge STOTT:

Q. You lived about four miles away?

A. Four or five miles, I couldn't state exactly.

Q. Down near the lake?

251 A. Near what is known as the head of the lake.

Q. Your land comes down pretty well to the bottom?

A. Yes, sir.

Q. And this place is a good deal elevated above your place?

A. Yes, sir.

Q. And your place is a kind of open piece of ground when you went there; the part you farm?

A. Yes, sir.

Q. It was not this heavy fir timber?

A. It was not very thick.

Q. Scattering timber?

A. Yes, sir.

Q. Did you raise any twenty bushels of wheat to the acre?

A. I don't know; I didn't measure the land or wheat to know.

Q. Could you swear you raised over ten bushels to the acre this year on your farm?

A. Yes, sir; I raised over ten bushels.

Q. How much?

A. I raised over ten bushels on an average. I had some that was a great deal better than that.

Q. Isn't your land chiefly located as mining land?

A. My land is what is called fern land.

Q. Open fern land?

A. There was a good deal of timber on it; not so heavy timbered.

Q. Any rocks on yours?

A. Some.

252 Q. Any gravel?

A. Gravelly in one or two places.

Q. Any salalle?

A. Yes, sir.

Q. All these things?

A. Yes, sir.

Q. Now this has rather what you call a large growth of timber upon it, hasn't it, this tract, this Budd place?

A. I would call it an average.

Q. Average for that country; a good quality of saw timber?

A. Yes, sir.

Q. It is down grade from there to the lake?

A. Yes, sir; some parts of it; yes, sir.

Q. Isn't there a good many ravines and canyons on this piece?

A. I think I remember but two ravines that could be called ravines, really.

Q. Isn't there a good many gravelly places?

A. There was several places; some gravel and surface rock; not extensive, though.

Q. That hill land, not gravelly, was it?

A. It produces good clover. That's all I ever seen raised on it; a man couldn't tell unless he saw it at the time.

Q. Might produce good clover and raise nothing else?

A. I suppose so.

Q. Isn't it true some of the land burnt over will raise clover out of the ashes remaining? *A.* The vegetable mold on it.

253 A. That I do not know; I never had heavy bodies of timber to burn that would burn the vegetable mold off.

Q. How much would you say that would cost an acre to clear and fit it for the plow; take an average?

A. It would be a rough guess with me.

Q. What is your best judgment?

A. I presume that could be cleared for twenty-five or thirty dollars; some could not; some could be cleared for a great deal less, and this is cleared on the prairie.

Q. I mean that outside?

A. That is my judgment.

Q. What would it be worth an acre when it was cleared for agricultural purposes?

A. That I am not prepared to state; I do not know of any agricultural land selling in that vicinity.

Q. Not worth very much in that part of the country?

A. I do not know.

Q. Aint it true all you settlers there hold your lands and estimate their value chiefly for the timber on them either now or when they come into market?

A. I do not; I can't speak for the others.

Q. Don't you know that is a fact that the chief value of that land——

By Mr. WHITE. Objection. (Objection sustained.)

By the COURT. This is the question being tried, whether they are chiefly valuable for timber or agriculture.

Mr. STOTT. I ask the question with this view, they have intro-

254 duced testimony here tending to show that there are men using such land in that part of the country. We propose to show that they are using them in a small way, holding their lands for the timber that is on them and not for agricultural purposes.

By the COURT. That is not the question you asked.

By Mr. STOTT. That is what I aimed to ask.

By the COURT. If you want to show these men are not agriculturists in the proper sense, only carrying on farming in a small way, and really holding their land for something else, that is another question.

Q. How much land do you cultivate, Mr. Carnine?

A. I plow between thirty and forty acres; I don't really know.

Q. You are about the largest farmer out there?

A. I think likely I have the most plow land.

Q. Who else around in that country farm thirty or forty acres?

A. I don't think I know of any.

Q. How much does Mr. Dixon farm?

A. I do not know; Mr. Dixon lives across the lake from me.

Redirect examination by Mr. WHITE:

Q. You was asked about what you raised on your land this year; what was this year compared with other years?

A. It was dry

Q. What have you raised upon your land per acre in other years?

A. Well, I forget; I did know; I have forgotten; I think I raised winter wheat, twenty-seven bushels to the acre, at times, and spring wheat, something over twenty.

255 Q. How much will it cost to clear this land so as to put it into pasture for cattle, so cattle could ordinarily get around over it, and pasture on it?

(Defendant's counsel objects to the question as immaterial.)

By the COURT. This will be enough by showing that such grasses as clover and timothy——

A. I suppose it could be got into pasture land for ten or fifteen dollars; some of it less, perhaps.

Q. About how much hay or timothy would it produce to the acre, of clover and timothy?

A. The clearing I speak of, you would not save very much hay; there would be a great many rocks on the ground; it would be pasture.

Q. There would be a good deal of pasture there?

A. Yes, sir.

Q. Would timothy and clover grow on that land?

A. Yes, sir.

By Mr. STOTT. Q. You would destroy the timber in doing that, though?

A. Principally, I would say.

JACOB TIPPERRY, a witness on behalf of plaintiff, being duly sworn, testified on direct examination as follows:

By Mr. WHITE:

Q. Where do you live, Mr. Tipperry?

A. Silver Lake.

Q. What is your business?

A. Farming.

256 Q. How long have you lived there?

A. About fifteen years.

Q. Are you a married man?

A. Yes, sir.

Q. How long have you been married?

A. About three years.

Q. Did you live with your father before you were married?

A. Yes, sir.

Q. Where did your father live?

A. At Silver Lake.

Q. How far from the S. E. quarter sec. 12, T. 9, N., R. 1. W., W. M.?

A. Perhaps about four miles.

Q. Were you ever on this piece of land I mentioned?

A. Yes, sir.

Q. When?

A. I have been there several times.

Q. When were you there; were you ever there in company with Mr. J. A. Munday, Mr. R. S. Carnine, and Mr. Ivy?

A. Yes, sir.

Q. When?

A. Last June.

Q. What did you do when you went there?
A. We prowled around over it considerably.
Q. What did you do; state?
A. Examined the quality of the soil.
Q. How did you make that examination?
257 A. By beginning at the northeast corner, running south 40 rods, then west 160; then we went back over the first 40 rods, and run south 80, then back east to the eastern boundary.
Q. What did you observe as you went over the land?
A. I observed a good many logs, underbrush, considerable standing timber.
Q. What did you observe as to the nature and growth, kind of growth, on that soil?
A. There was alder and maple, fir, a little of most all kinds that grows in this part of the country.
Q. What did you observe about the soil; what kind of soil was it; how deep was it?
A. It was clay loam, dark soil, was from 8 to 12 inches deep where we examined it.
Q. What is the soil of the farms in this country generally; that is, on the bottom, what kind of soil is it?
A. Clay soil.
Q. How as to comparing with this soil?
A. Good as the average.
Q. What would this soil produce, providing the timber was taken off the land?
A. It would produce hay and grain, all kinds of vegetables.
Q. What quantity of hay and grain and vegetables would it produce on average, to the acre, in a favorable season?
A. I think it would produce two ton to the acre.
Q. I mean in the native state, without additional manure?
258 A. As far as the vegetables are concerned, it averages good crops; I do not know as to——
Q. How does it compare with other hill lands that are farmed now?
A. It is as good or better than the average.
Q. How much of this land, if the timber was removed, and the stumps, could be plowed and harrowed; could you say?
A. I say 120 acres, probably.
Q. Did you notice any stone upon the land?
A. Yes, sir; in a few places.
Q. And gravel; describe where that was, how frequent you noticed it, and all about that?
A. About all I saw was on the northern boundary of the northeast forty.
Q. How about this land being broken and stony?
A. I only found one ravine that amounted to anything.
Q. Would you call it broken land; what would you call it?
A. Yes, a little of it broken.
Q. Only one ravine amounted to anything?
A. Yes, sir.

Q. How much would you suppose to be broken and stony so as not to be capable of being cultivated if the timber was off?

A. Probably twenty or thirty acres.

Q. That all in one body or scattered?

A. All in one body.

Q. What quarter section was that on?

A. That was on the northeast.

259 Q. Would you say this land was cut up with ravines?

A. No, sir.

Q. What would you say about it being too rough for cultivation, if the timber was off and the stumps taken out?

A. It is not too rough.

Q. How many tons of hay would it produce to the acre, of timothy or clover hay?

A. About two ton.

Q. About how many bushels of potatoes?

A. About between 150 and 200 bushels.

Q. What would it do as to producing cabbage and turnips and beets and such vegetables?

A. It would produce a very fair crop.

Q. Do you know George F. White?

A. I do.

Q. How long have you known him?

A. About 12 or 15 years.

Q. Where does he live?

A. At Silver Lake.

Q. Do you know of Mr. White examining the land down there?

A. Yes, sir.

Q. About what time did he first commence to examine lands in that section of the country?

A. I think it was the summer of '82.

Q. Did you have any conversation with White, why he was doing this?

(Defendants object, as immaterial and incompetent.)

260 Mr. WHITE. We claim this was in '82; that White was down there for J. B. Montgomery, taking up these lands at the time these lands were taken up.

By the COURT. If he had a conversation with White it might be material or might not; I would have to hear the answer.

Q. Do you know?

A. Yes, sir.

Q. I mean about these lands, what he was doing relative to these lands, what was the conversation?

A. About all I remember he said he was examining land for Montgomery, the part he was taking under the timber act.

Q. Did he make any proposition to you?

A. No, sir.

Q. Did he ask you to take a claim for him?

A. No, sir.

Q. Did you have any conversation with Montgomery about it any time afterwards?

A. Yes, sir.

Q. When and where with James B. Montgomery?

A. That was in '82.

Q. What was that conversation?

A. Well, he asked me if I wanted to make a hundred dollars easy. I told him I did. I would make two hundred dollars rather than miss it. He afterwards told me—he asked me if I would take a timber claim. He said if I would he would pay me one hundred dollars for my right and expenses.

Q. What did you tell him?

261 A. I told him I had not lived quite long enough; I couldn't take a claim; I wasn't of age.

Q. Where did he say he was taking land; did he say anything farther about it?

A. No, sir.

Q. Who was with him at that time?

A. He was alone at that time. It was during the time he was at Silver Lake with his family.

Q. Who else was there; did you ever see him there with George F. White?

A. Yes, sir.

Q. What were they doing together?

(Defendants object. We object to all of this unless it refers to this particular tract.)

By the COURT. It is this land.

Defendants' counsel. We move to strike out said reference to any other land except this.

By the COURT. His statements as to what he was doing is right enough; they can be contradicted.

(To which ruling of the court the defendants' counsel here and now excepts.)

By Mr. WHITE. What was White and Montgomery doing there?

A. I didn't see Mr. Montgomery doing anything in particular. He was stopping there at Mr. Rogers'.

Q. Saw him and Mr. White together frequently?

A. Yes, sir.

Q. Where were they going; what were they doing when you saw them together?

262 A. They were around Mr. Rogers' house when he was there.

Q. White stop there too?

A. He was there off and on.

Q. What time of the year was that in?

A. I think in July.

Q. What year?

A. '82, if I remember right.

Q. Do you recollect all the conversation with Mr. Montgomery about getting timber lands in that country. Did he tell you where he wanted to take up land, what sections of country?

A. He didn't mention any piece; I supposed in that section of the country.

Cross-examination by Judge STOTT:

Q. Where was you when you had this conversation with Mr. Montgomery?

A. I was at the house of H. W. Rogers.

Q. Was there anybody else there when you talked with him about it?

A. No, sir.

Q. Now, just state all the words he said and all you said.

A. That is the way the conversation commenced; he merely asked me if I wanted to make a hundred dollars easily.

Q. What did you say?

A. I told him I did.

Q. Then what did he say?

Q. Then he said how he wanted me to make it; I told him I
263 wasn't of age; I couldn't take a claim.

Q. Are you a farmer, you say?

A. Yes, sir; on a small scale.

Q. How much land do you cultivate?

A. About five or six acres.

Q. You pretend to make a living off this five or six acres?

A. Well, haven't so far.

Q. Then you have some other way of making a living for yourself and family?

A. Yes, sir.

Q. Farming, or how?

A. No, sir; working for other people; most anything I can get to do, that pays the best.

Q. So you do not have enough land to cultivate to support a family?

A. Not at the present time.

Q. You think this land would be very good land if it was cleared up; this particular Budd place?

A. Yes, sir; good land.

Q. Wouldn't it cost as much as it would be worth after it was cleared, to clear it?

A. Well, I think that would depend on how bad a man wanted it.

Q. I mean how much it would be worth to sell to any man wanting it?

A. I think it would cost as much to clear it as it would sell for.

264 Q. I mean to sell off to anyone that wanted to buy it?

A. Anyone who wanted to buy it for agricultural purposes?

Q. You do not think it could be sold for more than it would cost to clear it?

A. I do not.

Q. Is there a good deal of valuable timber on it?

A. Yes, sir; considerable good timber.

Q. Did you notice any gravel on this tract?

A. No, sir.

Q. Nowhere?

A. Nowhere.

Q. Did you dig down?

A. I did not.

Q. Did Mr. Munday, in your presence?

A. Yes, sir

Q. Did he dig down below the vegetable mold on the top?
A. Yes, sir; unless the vegetable mold went a good ways down.
Q. How far down did it go?
A. I suppose the vegetable mold went down 2 or 3 inches.
Q. Then what did you find?
A. Dark clay.
Q. Was it clay or clay loam?
A. I do not know.
Q. Such clay as you find underneath the surface of the land, common clay, was it?
A. I suppose so.
265 Q. Wasn't it common clay mixed with gravel and a little stone?
A. No, sir; it was not.
Q. Did you see any salalle brush on that place?
A. Yes, sir; a little.
Q. Where?
A. I think it was on the northwest quarter.
Q. Was any of it prairie?
A. Not on the prairie; some around the edge—in the edge of the timber.
Q. What grew on that prairie?
A. Ferns, grass, wild strawberries.
Q. What kind of grass?
A. I guess a kind of wild rye grass.

Redirect examination by Mr. WHITE:

Q. About how many acres did you say you cultivate of your own land?
A. About five or six—between five and six.
Q. How would that five or six compare with this soil on this land of 160?
A. I do not think it is as good land as on that 160.
Q. How long will it take you to get enough land, the way you are working out on your place yourself individually, to make a living where you are working, to make a living on the land at home?
A. In two or three years longer I will have enough land.
Q. In two or three years altogether you will clear up how much a year, working at it as you do?
266 A. Clear up four or five.
Q. How many acres to support a family will it take to earn a comparatively reasonably fair living on such land as yours?
A. Perhaps twenty acres.
Q. How many acres will it take to support a family on that 160 if cultivated properly and cleared up; I mean this 160?
A. I think twenty acres under cultivation of grass; land outside of that for stock; that would make a living; of course, would have to make more land than that for grazing purposes. It would not necessarily have to be cleared off—slashed, burned over, and seeded down.
Q. How much would it cost to slash and seed down, so stock could get on, outside of the 20 acres?
A. Probably seven or eight dollars an acre.
Q. Twenty acres cleared up ready for farming would support a family comfortably on that kind of land.
A. Yes, sir.

By the COURT. You have five or six acres cleared?
A. Yes, sir.
Q. How many acres altogether?
A. 160 homestead, not proved up yet.
Q. You say you could clear five or six acres a year if you had the time. How much time do you mean; would it take nearly all of your time?
267 A. Probably three months' time.
Q. Clear about an acre a month; five or six acres?
A. Yes, sir.
Q. Two acres a month?
A. Couldn't average that on 160 acres, on portions of it.
By Mr. WHITE. Q. The nature of the growth of timber on that place and yours, how about this 160?
A. Part of it about the same, part of my land more open.
Q. You got ten or twelve altogether like that?
A. Not as open as that.
By Mr. STOTT. Q. What kind of land is yours with reference to this; is it open, wasn't yours a kind of open prairie?
A. Yes, sir; second-growth fir, on most of it.
Q. Any heavy growth of fir at all?
Not any portion of it.
Q. Could you clear an acre in two months on the Budd place? Outside the prairie?
A. Portions of it I could.
Q. Take out all the stumps?
A. Not every one; take out sufficient so as it could be plowed and cultivated.
Q. In a month?
A. In a month.
Q. Yours is an opening?
A. Parts of it open.
Q. We were asking about the clearing?
A. Small second growth of fir.

268 T. E. MAGGUIGAN, a witness for the Government, being duly sworn, testified as follows on direct examination:

By Mr. WHITE:

Q. Where do you live?
A. Cowlitz County, Washington Territory.
Q. How long you lived there?
A. Lived there about eleven years.
Q. What has been your business?
A. I farm upon land about six years.
Q. Where you been farming upon land about six years?
A. In about three miles southeast of the lake.
Q. What lake?
A. Silver Lake.
Q. How far from the SE. $\frac{1}{4}$, sec. 12, T. 9 N., R. 1, W. of the W. M.?
A. My claim was a mile and a half from that by the trail or the road.
Q. Are you acquainted with the southwest quarter, section 12?

A. Yes, sir.
Q. When did you first become acquainted with that tract of land?
A. In the spring of '76.
Q. State how you became acquainted with it at that time, what you saw, all about it at that time.
A. I went to look at the claim I took; I passed through this at the time.
Q. Did you notice it?
A. Yes, sir.
269 Q What did you see there?
A. I found a man and his family there on the claim.
Q. Who was it?
A. Mr. Doty.
Q. What was he doing?
A. Fixing his cabin and planting a garden.
Q. Do you known why Mr. Doty left there?
A. He couldn't homestead the land.
Q. Why?
A. He took up a homestead right in Kansas.
Q. When did he leave?
A. He left same year, in July.
Q. Where did he go to?
A. He moved to the river from there.
Q. When were you next there on that land?
A. I have been on it a number different times ever since I took my claim and cut a road through it.
Q. Your claim beyond?
A. Yes, beyond going through by the lake.
Q. To go to your claim is there a road leading through this land?
A. There was at that time, to the lake.
Q. To go through, you went through this tract?
A. I helped cut a road through this claim to mine.
Q. When was that?
A. Spring of '76.
270 Q. How is this land; what is the growth of timber on this land?
A. On sec. 12?
Q. This Budd claim.
A. There was a portion of it pretty heavy timber, tolerably heavy; there was opening of somewhere about 8 to 15 acres, I should judge some few scattering firs on it.
Q. Was you ever there in company with a man by the name of Stubbs?
A. I do not know.
Q. Was you ever there on that land in company with Mr. Munday?
A. I was.
Q. When was that?
A. Last June.
Q. State what time in June.
A. About the latter part of June.
Q. What did you do about examining that land?
A. We examined it, looked at the soil, the undergrowth.

Q. Examined the soil and undergrowth?

A. Yes, sir.

Q. Describe the soil, the nature of it.

A. The soil was a rather black looking clay; clay loam I should call it.

Q. What the nature of the undergrowth?

271 A. There was some brush around this opening, some skookum and some vine maple, some salalle brush, some alder; I saw some small patches of Oregon grape; other places I noticed young undergrowth of cedar and hemlock.

Q. How does this land lie?

A. It lays pretty well on top of the knoll or ridge; rather rolling.

Q. What would you say as to being cut up with ravines and stony?

A. I did not see but very little that had stone in; very few; some places where trees had been torn up; some few rock, not worth speaking of.

Q. How as to being cut up with ravines?

A. I did not see any that would hinder in making a farm of it.

Q. How as to being broken and stony; what would you say about that?

A. I never saw much of it that was very broken or that was very stony. Some few spots had tumbling loose rock; surface rock.

Q. How would this land compare as to quality of soil with that of your own you got there?

A. Fully as good land, if not better.

Q. How long you say you been occupying that land?

A. Since May, '76; I haven't occupied it all that time; I have lived there about six years.

Q. Now, if the timber and stumps were taken off this 160 Budd claim, in dispute, how many acres of it would be susceptable of being

272 plowed, harrowed, cultivated as lands are ordinarily cultivated in this country?

A. If it was cleared it would be about ¾ of it, I should judge.

By the COURT:

Q. ¾ of the whole?

A. ¾ of the 160.

Q. Where would be the piece that would cause it not to be capable of cultivation?

A. Some on the northeast; a little rough; not so rough but it would do for pasture land.

Q. If the timber was off, what would that rough land produce as far as grass is concerned?

A. Produce pasture grass, timothy, clover, orchard grass.

Q. How many bushels of potatoes to the acre you think this land will produce under ordinary cultivation?

A. Depends on the season.

Q. Fair season?

A. From 150 to 200.

Q. How many bushels of onions?

A. I never saw but few onions raised; it would raise as much as any land of that quality.

Q. How many tons of timothy hay to the acre would it produce?

A. About a ton and a half, I should judge, good season.
Q. How as to potatoes, turnips, carrots, and such vegetables?
A. They grow well in favorable seasons under fair cultivation.
Q. How was this land watered?
273 A. There was a spring near the cabin where this gentleman Doty lived; spring; a branch running from the spring.
Q. Was that branch on this land?
A. Yes, sir.
Q. Was that caused by a ravine?
A. I never followed down the ravine any great distance; as far as I had been down it was not much of a ravine on the south side.
Q. How about the banks of the ravine; the abruptness, the approaches, anything of that kind?
A. On the north side was where the rough land was; the spring is on the south side of the quarter section.
Q. What improvements was on this land in 1882?
A. Well, there was a cabin; there was a lot there of an acre and a half or 2 acres that was fenced with rocks; part of it with limbs and brush.
Q. What was the condition of those improvements in 1882?
A. There was not much difference then from what there is now, except the cabin was not quite so much dilapidated.
Q. What was the value of those improvements in 1882?
A. A gentleman fixed up the cabin (he was going to live on it), named Bacon, about six years ago.
Q. About six years ago; in 1881?
A. Yes, sir.
Q. In 1882 what was the value of this cabin; the improvements?
A. I could not set any value on it, but not very valuable; just a small cabin.
274 Q. Can you put any estimate at all?
A. I could not say what it would cost; the man done all the labor himself.
Q. How much—how many days would it take him to make the improvements there you saw?
A. I expect it would take him a month and a half or 2 months.
Q. What would it be worth a day to make such improvements?
A. About a dollar and a half and board himself.
Q. Do you know Geo. F. White?
A. Yes, sir.
Q. How long have you known him?
A. Ever since I came to the country.
Q. Where was Geo. F. White in the year of 1882; along about that time?
A. He was at my place.
Q. Living at your place?
A. No; he stopped there a few days in harvest time.
Q. What was he doing those years, if you know?
A. At that one time he was examining the lands for, I believe, he said, he was examining in '82 for Mr. Montgomery.
Q. J. B. Montgomery here?
A. That was the name he gave.

Q. Did you have any talk with Mr. Montgomery about these lands?

A. No, sir; not acquainted with him at all.

Q. Who was with Mr. White when these examinations were going on, if you know?

A. Geo. Taylor and a young man; I do not recollect his name.

275 (Defendant's counsel objects to this unless confined to this time. Objection overruled; to which ruling of the court said counsel here and now except.)

Q. Who did White say he was working for?

A. Mr. Montgomery.

Q. What was he doing for Mr. Montgomery?

A. Examining some timber land.

Q. Have any talk about what Mr. Montgomery—how these lands could be got?

A. No, sir; I did not hear him say.

Q. You got a family living on your land, have you?

A. Not at present; not there.

Q. How many acres you got cleared on your claim?

A. I got about 45 under fence.

Q. How long did it take you to clear up that 45 acres?

A. We cleared it up, father and I done the most of it, during the six years; done some other slashing.

Q. You were laboring, poor men, worked out besides?

A. I worked out some besides after the first two years.

Q. Tell the court how you clear up land down in that country; the usual way of getting a farm cleared.

A. Well, when the timber is thick we slash it down, let it dry, and burn it, and seed it to timothy and clover.

Q. Then what do they do?

A. Pick up the small stuff, if they want to cut grass for hay; if not, let the stock run over it; let it rot out.

276 Q. Is it necessary to take all the stumps out in order to cultivate the land?

A. No, sir; men can work around them; at least I have.

Q. How many of the family did you support on yours?

A. We did not support a great deal. We raised our vegetables and horse-feed and such things; with the other things we had enough money to buy our provision.

Q. How many acres of that land, cleared up with a reasonable quantity slashed and burnt over, would be necessary to support an ordinary family with ordinary comforts—a poor man's family?

A. That would depend on what he cultivated in.

Q. I mean cultivated to the best advantage?

A. I suppose 40 acres would keep a family in pretty good shape, thoroughly cultivated.

Q. I am speaking of this 160 acres of land.

A. Yes, sir.

Cross-examination by Judge STOTT:

Q. Your farm was the same character of timber as this?

A. Not all of it.

Q. How much of it was like this?

A. Part of mine, quite a lot of it, was second-growth young fir.

Q. Open land?

A. Some of it open land; part of it had big timber amongst that second growth.

Q. Wasn't yours the most open piece of land up in that country?

A. A portion of it was.

277 Q. About as open as this prairie spoken of on this tract, wasn't it?

A. I suppose there was about the same amount of open land—some scattering firs in places.

Q. You lived there how long?

A. I lived there about six years.

Q. You still live there?

A. No, sir.

Q. You still run the place?

A. Yes, sir.

Q. You rent it out?

A. No, sir.

Q. What do you do with it?

A. It is laying there.

Q. How much income do you get off that 40 acres cleared?

A. I do not get much, if any. I have been pasturing it. Other parties pasture in the fall until it is tracked pretty well out.

Q. Do you get enough off it to pay the taxes?

A. Yes, sir; will have more this year.

Q. How much more?

A. I could not say. I have cut about 15 or 16 tons of hay there this year.

Q. This summer?

A. Yes, sir.

Q. How many acres do you cut altogether on that?

278 A. I didn't measure. It is light.

Q. You have an idea, don't you?

A. I suppose there must be 20 acres.

Q. From 20 acres you get 15 or 16 tons?

A. Yes, sir. The land has been tramped out during the winter season.

By the COURT. How many acres have you altogether?

A. About 45. The land has been tramped since I left there. I have been away about five years. It has been pastured in winter time, and don't turn off near the hay it did when I left.

By Mr. STOTT. You had to go off on some other place to make a living?

A. No, sir. I merely wanted a change; went to the river to work in a logging camp. After being there, my brother and I bought out the man and went to logging.

Q. Found that more profitable than on the ridge farming?

A. Only a part of the time.

Q. How much you say it will cost to clear this land, the Budd tract, outside of that prairie?

A. I never cleared any land as heavy timber as that.

Q. None of yours heavy timber?
A. I have got some.
Q. You have never cleared it?
A. No, sir.
Q. You have some idea; you have worked in timber logging, &c.; You have an idea about the value of clearing, don't you?
279 A. I have an idea of some I cleared.
Q. How much did it cost to clear yours; how much labor did it take?
A. I expect mine has cost me from fifteen to twenty-five dollars an acre by the time it was fenced.
Q. Would this cost fifteen to twenty-five dollars an acre, this Budd tract?
A. Some more, and some would cost less.
Q. You didn't get any income except this year off of your place?
A. I have had hay there a number of years, every year; cut it except two years, since I left there; had more one year I didn't need.
Q. You think it would go 150 bushels to the acre?
A. Yes, sir.
Q. In order to make all this you would have had to take out most of the trees?
A. Would have to take some trees out and work around the larger stumps.
Q. How much timber on that tract per acre?
A. I never made an estimate of it.
Q. Did you take that into calculation at all in your examination up there?
A. No, sir, I did not.
Q. Didn't look at the timber?
A. I saw there was some good timber.
Q. You paid attention to the soil?
280 A. I paid a portion of the time to the timber.
Q. What kind, good growth of good timber there?
A. Some of it pretty fair timber.
Q. Take the average of the 160 acres, isn't it a good average of timber?
A. It is for that part of the country, of timber.
Q. Wouldn't it go as much as fifty to one hundred thousand feet or more?
A. I couldn't say, some would go that and some more.
Q. In order to clear that and leave it of any value for agriculture, either pasture or otherwise, you would have to destroy the timber?
A. Would have to slash.
Q. Would have to injure or destroy for logging purposes?
A. Yes, sir.

Redirect, by Mr. WHITE:

Q. That is, if there was any mills handy to take it at the time?
A. Yes, sir.
Q. What was hay worth a ton this year per ton?
A. In our section of the country it is worth 18 or 20 dollars.

By Mr. STOTT:

Q. How much did it cost to get that hay of yours down to your logging camp?

A. We did not take it to our logging camp, took our team there in the winter time and fed it.

Q. How did you get it down to the railroad?

281 A. I could, but it is not necessary. Not working the team in winter; drive them to the hay and feed it out.

Q. What would it cost to get it to market, suppose you wanted to take it off?

A. That is a calculation I have not made. I did not calculate to market it; just cut for our own use.

Q. You never market hay; it is much more easily to feed as grass?

A. No, sir.

Q. By Mr. WHITE. Would that be the case if the roads were cut through that country?

A. Well, yes; the roads are not number one; the distance wouldn't pay for hauling.

Q. How far?

A. Would have to haul hay 10 miles to get to a steamboat or R. road.

Q. To feed cattle would do as well there as elsewhere?

A. Yes, sir.

Q. How long would it take to drive cattle out?

A. I can drive all I have out in half a day.

OSGOOD BULLOCK, a witness in behalf of plaintiff, being duly sworn, testified as follows, on direct examination:

By Mr. WHITE:

Q. How old are you?

A. Fifty-nine.

Q. Where do you live?

A. I live in Cowlitz County.

282 Q. How long have you lived in Cowlitz County?

A. I came in the spring, or Feb., '71.

Q. Have you been living there since?

A. Yes, sir.

Q. Do you know where Sec. 12, SE. ¼ T. 9 N., R. 1 W., of W. M.?

A. Yes, sir.

Q. The southeast quarter of that section?

A. Yes, sir.

Q. Have you ever been upon it?

A. I have, several times.

Q. How frequently, would you say?

A. I could not say; I have crossed it a good many times; crossed on the road several times; been across it hunting several times.

Q. Have you ever been there to examine it, along with Mr. Munday, the special agent?

A. No, sir.

Q. Did you observe the land when passing over?

A. Not more than I would other land.

Q. Did you notice the general growth?

A. What I saw of the general growth.

Q. What is it composed of?

A. Fir, soft maple, vine maple, alder, ash, and so on; undergrowth of salmon berries.

Q. Describe the growth of timber that usually grows on hill lands in this country; that is, fit for farming purposes in that section of country; fit for farming purposes.

283 A. Generally pretty good size fir grows on land there, mixed in with vine maple and others, sometimes soft maple. What we call brake, a kind of fern, a stool over the ground, formation, a kind of flag stool grows up and dies down.

Q. What kind of land is required to produce this brake?

A. That is considered first-class farming land, for farming land, for hill land, first-class land, the brake land.

Q. What other first-class land—what kind of vegetation do you see on first-class land?

A. Maple, vine maple, alder.

Q. How about dogwood?

A. That grows with it; where you see dogwood you see alder, sometimes willow.

Q. Barberry?

A. Yes, sir.

Q. Alder, skookum wood; what land will they grow on?

A. That is small; I do not know that that is any particular sign of good land. That will grow most anywhere.

Q. How about alder?

A. Alder grows on good land.

Q. Did you observe the soil of this land on this place?

A. No more than I should any. I was over it the time that man took it.

Q. At the time who took it?

A. The man who went in there at that time; the only time I observed it was then.

Q. Mr. Daughty?

284 A. Doughty, when he was on the prairie.

Q. What year was that in?

A. I think that was '76; I think in the spring.

Q. What did you observe about the land then as to soil?

A. I was talking to him about the land there on the prairie, &c., about the soil, whether it would bear anything or not.

Q. Did you go in with this man?

A. No; I happened to be there.

Q. Describe what you saw of the soil, what kind of soil it was?

A. As far as we talked we calculated it would raise goad potatoes or anything providing it was cleared. I did not go over it.

Q. Did you look at him cultivating?

A. No; he wasn't doing anything particularly then; had not done; he was getting his cabin fixed up.

Q. How was that soil, judging from the growth; what you seen of it; how would it compare with the land you live on?

A. I have two kinds of land; I have upland rockier than that; not as good land. I have land probably as heavy timber, slashed, not cleared; it put down to pasture, and on the upland I have raised good crops, 200 bushels of potatoes.

Q. How will that upland of yours compare with this 160?

A. Rockier than this 160. Otherwise the character of the soil——

Q. Otherwise the character of the soil?

A. About the same color?

285 Q. What do you raise on yours?

A. I have raised potatoes, wheat, vegetables of all kinds.

Q. How much potatoes and vegetables?

A. I have raised as high as 200 bushels of potatoes to the acre, and twenty-five bushels of wheat.

Q. What kind of seasons were they?

A. Well, they were good seasons for cultivating, ordinary good seasons, not dry seasons.

Q. How has the last season been?

A. Last season I cut hay; I am engaged in some other business, but I use hay for my team.

Q. How many tons to the acre of timothy hay will this land produce?

A. This land, I pasture the bottom land good deal deeper than upland.

Q. How as to pasture?

A. This is good.

Q. How does it hold out?

A. It holds out in a very dry season; it will dry some; it holds out well, good pasture.

Q. How many years you been a practical farmer, you say?

A. I was raised on a farm; I might say a good many years; here since '71.

Q. What country you raised in?

A. Vermont.

A. Rather rocky country?

A. Yes, sir.

286 Q. Stubborn soil?

A. Some of it good soil, better than that Doughty claims, a good deal.

Q. Do you know J. B. Montgomery?

A. I know him by sight.

Q. Have you had conversations with him about this land down there?

A. I have.

Q. When?

A. I think five years ago this last summer.

Q. What was this conversation about; what did he say?

A. He wanted I should take a piece of timber land in the section I am, section 6, laying across the farm adjoining on to my place.

Q. That piece of land he wanted you to take, how would it compare with this land?

A. Pretty much the same kind of land. It is good land, good farming land.

Q. What did he say in that conversation?

(Defendant's counsel object. Objection overruled, to which ruling of the court counsel for defense here and now except. Exception allowed.)

Mr. WHITE. Q. What was it he said to you at that time, in '72?

By the COURT. It may go in, subject to objection; I have some doubt.

A. He said if I would take this piece of land he said he would see that I should have a money bonus of $100.

Q. Did he tell you how you could take it?

287 A. Under the timber act.

Q. What did you say?

A. I told him I did not think the timber act belonged on that land.

Q. What did he say?

A. He seemed to think it did. I told him I did not want to take it for anybody. If I took it I would take it for myself entirely.

Q. Do you know Geo. F. White?

A. I know him.

Q. Did you see him about there during that time?

A. He was there with Montgomery and wife at the time.

Q. At the time of the conversation?

A. I do not know whether he heard it or not.

Q. What were they during there, if you know?

A. I do not know; I guess they had been fishing in the creek; I think Mr. Montgomery is a great hand to fish. I think he was fishing in the creek.

Cross-examination by Judge STOTT:

Q. Was anybody there besides Mr. White?

A. Mr. White, Mr. Montgomery and wife.

Q. Who else?

A. I do not recollect any one else; if there was I do not recollect.

By the COURT. When was this conversation you had with Mr. Montgomery you refer to?

A. I think it was in '82, five years ago this summer. We was

288 drawing in hay at the time he was at the house; I think it was in July.

By the COURT. I will reserve the ruling on that.

By Mr. STOTT. Q. Didn't Mr. Montgomery take up a timber land claim of his own there about that time, on the lake?

A. I do not know, sir; only what he had with him; I had nothing to do with him in no other way.

Q. Now, didn't your land lie right along the creek, the main part of it, across the creek bottom?

A. Across the creek bottom.

Q. How much of this upland do you farm?

A. Well, sir, I think about 8 acres; I have had under cultivation, that is, plowed, six or eight acres.

Q. How long have you been there on that place?

A. Since '71; I took it in '72.

Q. How much you got cleared in cultivation?

A. In grass pasture, I have 25 acres.

Q. Was it heavy timber as this Budd claim?

A. This farm land in fir timber; there is openings on this land I slashed as heavy as the Budd claim; this I did not clear; cut and sowed down to pasture.

Q. Where you slashed, that was a destruction of the timber?

A. The pasture ground had the best fir timber up to this time.

Q. How much an acre would it cost to clear this land, the Budd tract, so as to plant potatoes on it?

A. You might plant amongst the logs, perhaps.

289 Q. I mean, to go at it in an ordinary business way.

A. If you left the stumps in just leave the timber off, this way; don't dig out the stumps; they generally sell the logs and take into the mill, slash and burn off. That's the way we clear it.

Q. Now, what would it cost to clear that land?

A. It would cost thirty dollars an acre.

Q. How much would it be worth for potato land after it was cleared?

A. O, well, I don't know; the land would be worth fifteen or twenty dollars an acre if you wanted to sell it.

Q. It would cost about all it is worth to clear it?

A. I do not know as you can get any land that will cost less than wild land; I don't know that the land would cost more than the land would be worth to clear it.

By Mr. WHITE. That is, an outlay as capital?

A. That is, an outlay as capital. The first one don't generally get it. It is generally the second one that gets it.

C. N. HOGAN, a witness for the plaintiff, being duly sworn, testified as follows on direct examination:

By Mr. WHITE:

Q. Name, age, and residence?

A. C. N. Hogan; 44 past; residence, Cowlitz County.

Q. Where were you born, Mr. Hogan?

A. I was born in Baltimore.

Q. How long have you lived in Washington Territory?

A. Since the fall of '75.

290 Q. Where at in Washington Territory?

A. Principally around Silver Lake, in Cowlitz County.

Q. Do you know the SE. ¼, sec. 12, T. 9 N., R. 1 W., of W. M.?

A. Yes, sir.

Q. When were you first upon that tract of land, if you recollect?

A. In the early part of '76.

Q. Who did you come there with?

A. I went there with—I do not recollect in company now—there examining lands for settlement.

Q. Did you look at that piece of land?

A. Yes, sir.

Q. At that time?

A. Yes, sir.

Q. What examination did you make of it at that time?

A. Just simply passed over it and looked at it.

Q. When was the time you was there?

A. During the summer of '76; I was there frequently with parties; went over it.

Q. Was you over there with a man by the name of Stubbs?

A. Yes, sir; I was there with Stubbs about four years ago next January.

Q. Who was this Mr. Stubbs?

A. United States special agent.

Q. Well, what did you go there with Stubbs for?

A. I went there in the capacity of chainman to examine some land for the Government.

291 Q. Did you go over this Budd land?

A. Yes, sir; chained up west line of it from the northwest corner; thence across the center of it to the meridian line, which forms the eastern boundary from there to the northeast corner.

Q. What did you do at that time about examining that land, soil, and everything? Just state

A. We passed it, looked at the soil, growth of timber, underbrush, &c., &c.

Q. What kind of underbrush was growing on that land?

A. Young fir, cedar, vine-maple, maple, cherry; in fact, all the varieties of brush that grows on that kind of land in that country.

Q. That variety of brush you speak of, what kind of soil does it generally grow on?

A. Land with such a variety of underbrush has been considered good land.

Q. For what purpose?

A. For farming purposes.

Q. How near do you live to this piece of land?

A. To Silver Lake?

Q. To this piece of land?

A. I have lived within a mile of it; I am now living ten miles off.

Q. In the same region of country that it is in?

A. Yes, sir.

Q. How was the soil on your farming land; you farming that land?

292 A. Yes, sir; been farming it.

Q. What kind of soil on this piece of land—that this Budd piece of land—in controversy has compared with the soil on your piece of land?

A. Well, nearly all the upland is just alike in that part of the country; very little difference; about like all the rest of it.

Q. Well, what would your soil produce if it was cleared off, the timber growing upon it and the stumps taken out, ordinarily?

A. It would produce whatever such land produces in that part of the country.

Q. That is what we want to know.

A. Produce all grains raised on land—wheat, oats, barley, hay; vegetables—such as potatoes, cabbage, such things.

Q. What quantity will it produce to the acre in an ordinary fair season with an ordinary fair cultivation?

A. I have seen lands something similar to this produce from 100 to 200 bushels an acre, and hay a ton and a half to 2 tons, perhaps.

Q. When was you next there to look at that land after being with Stubbs?

A. I have not been there to examine the land since. I do not know as I have been there since. I think that is the last time I have been there. Once I passed up the road; there is a road leading from the lake up to that part of the country; may have been up that road since; not to examine the land or anything.

293 Q. The road run through this tract?

A. Yes; it runs a little on the land from the line.

Q. If the timber was all taken off that land, and the stumps cleared up, how many acres of that land could be plowed, harrowed, and cultivated, as lands are generally plowed, harrowed, or cultivated?

A. It is not very rough and I should judge at least three-fourths of it could be cultivated if properly cleared.

Q. How is that land as to being cut up with ravines and stony?

A. There is some rocks on the eastern portion of it near the meridian line, except the northeast portion; there is a creek with a few branches goes down in and out of the creek; does not cut up very much, still there is some, a piece on the creek, not fit to plow perhaps.

Q. How is it as to being broken, what you call broken land?

A. I mean it is gently rolling, not broken, except where this creek is; there is a few breaks on this creek.

Q. How many acres are broken and stony land, unfit for cultivation, would you say is on that 160 acres upland?

A. It is in different pieces; you can only make one estimate, an opinion of it. I do not think to exceed 40 acres, perhaps not that much.

Q. This 40 acres, what would it do if cleared off of timber as to producing grass pasture?

A. It would produce pasture; I have seen such land pastured.

Q. How about stock being able to get over it and around it?

294 A. Yes; they can get over it; it is not too rough.

Q. Did you notice any improvements on this land when you went there with Mr. Stubbs?

A. Yes, sir; there was a cabin on it, and some plow land; I helped build the cabin, helped to plow the land.

Q. When did you help build the cabin?

A. In the spring of '76.

Q. In 1882, about the last of August, about what was the value of improvements on that land?

A. The value of it wasn't very much. The cabin, although it had been repaired up a little, it was not very valuable; a person could live in it, that's about all.

Q. A person could live in it at that time?

A. That is about all they could do in fair weather.

Q. What was the value of improvements at that time?

A. Not very much.

Q. About the same value, in your opinion, now? I want you to put in your opinion.

A. If a man wanted a place to go into for a short time, it will do to go into; just a few dollars.

Q. A few dollars?

A. Eight or ten dollars; I would not consider it worth any more than that.

Q. What did you do about plowing it up?
A. Plowed it up; we had two yoke of cattle.
Q. How many acres?
A. I do not know; we did not measure it; I judge some over an
295 acre.
Q. First breaking up?
A. Yes, sir.
Q. Tell the court what the soil was?
A. The soil was a dark clay soil; it looked like the usual soil of the farms there; not much difference.
Q. See any crops growing on that soil afterwards?
A. Yes, sir; the man raised some vegetables and potatoes.
Q. How did the potatoes compare with those raised on other land?
A. For new land, not much of a crop; few vegetables doing well; the others were not.
Q. How about potatoes?
A. Didn't plant many potatoes; I think went part; seven bushels; not very many of them; only a small portion.
Q. What kind of a season?
A. Very good season.
Q. That was on this prairie?
A. Yes, sir.
Q. About how much is there of that?
A. I never measured it correctly; I have stepped it. I judge what prairie there is on this quarter would be fifteen acres; perhaps a little more.
Q. How would that prairie piece compare in quality of soil on which these large timber trees were growing?
A. I think something similar; I could not see much difference.
Q. In August, 1882, about that time, summer of 1882, July and
296 August, did you know George F. White?
A. Yes, sir.
Q. Where was he about that time?
A. I think he was living on the lake.
Q. What was he doing there?
A. Well, I saw him once or twice out in the timber examining the land; I didn't see very much of him; I was then in a different portion of the country.
Q. Did you talk with him?
A. No, sir; I had no coversation with him.

Cross-examination by Mr. STOTT:

Q. You was out with Mr. Stubbs?
A. Yes, sir.
Q. You have taken a good deal of interest in this case, haven't you?
A. Not an unusual, I do not think.
Q. Haven't you taken more than a general interest?
A. I do not know what you call "more than a general interest."
Q. Now you say that this is very similar to the land you live on?
A. Yes, sir; that I lived on at the time I was speaking.
Q. You abandoned that and went away from it?
A. Yes, sir.

Q. Where did you go then?
A. I went to Cowlitz River.
Q. Did you go over onto another piece?
A. Yes, sir; I went to another piece on the other side of the lake
297 Q. And abandoned that?
A. Yes, sir.
Q. How many different pieces you undertaken to take up and abandoned?
A. Two pieces.
Q. And finally went to Cowlitz River and bought land?
A. Yes, sir.

Redirect examination by Mr. WHITE:

Q. Why did you leave these claims you speak, that you abandoned?
A. I had a family of children growing up; couldn't get school facilities there, and moved for that reason.
Q. Moved for that reason?
A. Yes, sir.
Q. How far was this away from the settled portions of the country at that time?
A. It was several miles.
Q. How about roads to get into that country at that time?
A. The roads on that side of the lake where I was living last average good roads.
Q. I mean when you abandoned this land; in a mile of this land?
A. It was very difficult; I had to go across the lake.
Q. How about getting grub in there?
A. Rather hard fare.
Q. Had to pack it in?
A. Yes, sir.
298 Q. The country was wild and unsettled?
A. Yes, sir.
Q. How about being settled around there now, compared to the time you was there?
A. A good many settlers gotten in.
Q. Now, as the country is being opened up——
A. Roads are put in there.
Q. And schoolhouses?
A. No schools on that side of the lake, but then there is roads there now.
Q. How far from the river, you say?
A. About ten miles.
Q. How far from the railroad?
A. Well, it is about the same distance, because the railroad and river about the same.
Q. In what you call the back country?
A. Yes, it is yet.

By Judge STOTT:

Q. You are not a farmer now?
A. Not strictly so; no, sir; I make a living partly farming and fishing.
Q. You are more a fisherman, and have been for several years, than a farmer?

A. Yes, sir.
Q. You abandoned these places and went to the river to fish?
A. Yes, sir; partly so, and partly to get my children to school.
Q. When was it you went with Stubbs?
A. It will be four years next January, I think.
299 Q. This old house was there then?
A. Yes, sir.
Q. You do not put any particular value on that house?
A. Not very much.
Q. There are a great many cabins in that country where people settled and abandoned?
A. Some few, not very many of them.
Q. You moved once from one tract to another?
A. From one part of a tract to another.
Q. Took a man's cabin and left it?
A. No, sir.
By Mr. WHITE. We object, and move to strike out.
By the COURT. I think everything about that cabin might as well go out; it don't amount to anything.
By Judge STOTT. You say about 2 years ago; can you give us the year?
A. I say about four years ago next January; I think it was January of '84.
By Mr. WHITE. Q. Who was the man that was with him when tubbs and you were there?
A. The surveyor's name was Haughe.
Q. Where does he live?
A. Mr. Stubbs brought him from Portland, I believe. Charles H. Stott was with us as another clain man. H-a-u-g-e, in the way he spells his name, and pronounces it Hau-ge.
Q. Charles H. Stott was there also?
300 A. Yes, sir.

EDWARD J. SEARLES, a witness for the Government, being duly sworn, testifies as follows, on direct examination:

By Mr. WHITE:

Q. Your name, age, residence, Mr. Searles.
A. Edward J. Searles; age, 45; residence, Silver Lake, Cowlitz County.
Q. How long have you lived there?
A. A little over five years.
Q. Do you know George F. White?
A. I do.
Q. Do you know James B. Montgomery?
A. Yes, sir.
Q. Did you see this gentleman about Silver Lake in the year 1882—summer of '82?
A. I think it was '82? I do not remember the date exactly.
Q. You are the Edward J. Searles who took up a timber claim down there?
A. Yes, sir.

Q. Did you have any conversation with James B. Montgomery in the summer of 1882 about timber land in that country?

(Defendants object. Objection overruled.)

WITNESS. I did not.

Q. Did you take up any lands in 1882?

A. I believe I did.

Q. In that section of country?

A. Yes, sir.

Q. Did you have any conversation with Geo. F. White?

301 A. I did.

Q. In the summer of '82 before you took up these lands; about the time you took it up?

A. Yes, in the spring or summer of 1882, I did.

Q. What was the conversation?

(Defendants' counsel make same objection. Objection is overruled, to which ruling of the court said counsel here and now except.)

WITNESS. He came to me and told me if I would take up a certain piece of land he would pay me one hundred and twenty-five dollars ($125.00) when I gave them a deed.

Q. Gave who a deed?

A. Made a deed to J. A. Montgomery.

Q. To take up this land?

A. Yes, sir.

Q. Did any body pay you any money for it?

A. I received a check in Portland from J. B. Montgomery, and received the money from the 1st National Bank in Portland.

Q. Who gave you the check?

A. J. B. Montgomery.

Q. What was the conversation you had with him at the time he gave you the check for those lands?

(Defendants counsel enter same objection; court makes same ruling, and said counsel except.)

A. I do not recollect the conversation; he was at the time lay-

302 ing sick with a broken leg at the time I received this check, if I aint mistaken.

Q. Who directed you to go to J. B. Montgomery to get this check?

A. I believe there was some business transactions in Portland and he told me to call at a certain time and receive a check at his house.

Q. Did he tell what he was going to give acheck for?

A. I believe he did.

Q. Who paid the expenses for the examination of lands you took up?

A. I could not say in particular anything about the examination of it.

Q. Who paid the expenses of witnesses and all to prove up on the land, do you know anything about that?

A. Well, I think I paid that myself.

Q. You think you did?

A. Yes, I am pretty positive I did.

Q. Was that allowed you in this settlement of $125?

A. No, I think not.

Q. Who were the witnesses?

A. Mr. White was one and the other one I could not positively state.

Q. George Taylor?

A. I could not state on oath, because I wasn't acquainted with Geo. Taylor.

Q. Mr. Geo. F. White was one?

A. Yes, sir.

303 Q. How many persons went to prove up on lands at the time you did?

(Defendants object.)

A. There was not any one I know of.

Q. The day you made proof or after, where did you go then?

A. The day proof was made I was at home.

Q. Where was the proof made?

A. I rather think it was in Vancouver.

Q. Where was the money paid for the land?

A. The money was paid in Vancouver.

Q. Who paid it?

A. I paid it myself.

Q. Who furnished it to you?

A. J. B. Montgomery.

Q. Who furnished the money to pay the expenses at the land office?

A. I had that in my own pocket.

Cross-examination by Judge STOTT:

Q. When did you get this money to pay for land from Mr. Montgomery?

A. I am under the impression, I wouldn't state the day exactly, I done the business on the 6th day of October, I think.

Q. Where did you get the money?

A. In Portland.

Q. At his house?

A. No; if I am not mistaken I received it in Mr. Bingham's office.

Q. Didn't you get a check from Mr. Montgomery in his room

304 when lying sick in bed?

A. Yes, sir; the check for one hundred and twenty-five dollars.

Q. What, if any, conversation took place at that time?

A. I do not remember all or any in particular.

Q. What, if any, conversation did you ever have with Mr. Montgomery about this land being taken up by you for him?

A. There was a conversation between us in regard to the legality of this transaction.

Q. With Mr. Montgomery?

A. Between Mr. Montgomery and myself, in regard to the legality of these entries of taking this land, in which Mr. Montgomery intimated that it was a little on the unlawful order, in which he intimated it was not exactly lawful to do this business.

Q. What did he say?

A. He said the law was so fixed; he urged there was a little chance for a hole to crawl out of.

Q. What did he say that little hole was?

A. I do not remember.

Q. What did he say about the little hole?

A. He intimated there was a chance to get out of it and get out clear.

Q. State the whole conversation?

A. I could not do it.

Q. You say he intimated; what were the words he made the intimation in?

A. I have stated the words.

305 Q. State the words again?

A. That the transaction was not exactly according to law, or legal; there was some certain clause in the law that we could get out of without being ketched by law.

Q. Where did he tell you that, and when?

A. I do not remember when, might be the 5th day of October.

Q. At the time you got the money?

A. At the time I got the money.

Q. When lying on the bed?

A. No; this was in October, about the time the money was paid and the land proved up on; probably two or three months prior to the time he was sick.

Q. When did you prove up?

A. Sixth day of October, I think?

Q. That was the time you had this conversation when he spoke about a hole to get out of?

A. Yes, sir; the day before.

Q. Where did you have the conversation?

A. In Bingham's office, Portland, I think.

Q. Before he was taken sick?

A. Yes, sir.

Q. Did you have any conversation with Mr. Montgomery before that 6th day of October in Mr. Bingham's office?

A. Not that I remember of.

Q. How many conversations did you have with Mr. Montgomery about that land?

A. Well, what I stated there, and the time he was sick (2), all

306 I remember of.

Q. Where were they?

A. The first time he was in Bingham's office.

Q. That was down on First street, in Portland?

A. Yes, sir.

Q. The second time was there at the time he was sick with his leg, at his own house?

A. Yes, sir.

Q. The first was at Bingham's office?

A. I have stated it the best I could.

Q. And used all the words that were used?

A. That I can remember.

Q. Who was there beside Mr. Montgomery?

A. Mr. Bingham.

Q. Which Mr. Bingham?

A. Mr. Bingham.

Q. Do you know Mr. Ed. Bingham and H. T. Bingham?

A. No, sir; I do not.

Q. You do not know which it was?

A. No.

Q. Did Mr. Montgomery then, or at any other time, ask you to take up that land for him, or intimate he wanted you to take it up for him?

A. No, Mr. Montgomery did not.

Q. Never did?

A. Not to my remembrance.

Re-direct examination by Mr. WHITE:

307 Q. He furnished you money at that time, did he?

A. Yes, sir.

Q. And you came over and gave that money to the land office?

A. Yes, sir.

Q. And then went back and got one hundred and twenty-five dollars?

A. That was probably two or three months after that.

Q. What did you do with the certificate when you got it from the land office?

A. I think I have that at my home yet.

Q. When did you make Mr. Montgomery a deed; didn't you make a deed to Montgomery?

A. Yes, sir.

Q. When was that done?

A. That was done some time in—I don't remember dates—I think in January; must have been before that.

Q. Proof was made 6th day of October, '82?

A. Yes, sir.

Q. This conversation was with him before that a few days?

A. Yes, sir.

Q. Who came with you?

A. Nobody.

Q. You came and paid the money at the Vancouver land office?

A. Yes, sir.

Q. Did you report back to Montgomery about paying the money to the land office?

A. No, sir; I rode one of his horses here and rode it back.

308 Q. Did you have any talk with him when you got back?

A. I presume we had; I do not remember the running conversation.

Q. How much money was it he handed you?

A. I think it was four hundred and twelve dollars ($412.00).

Q. And paid all of that into the land office for land?

A. Yes, sir.

Q. And he subsequently gave you a hundred and twenty-five dollars?

A. Yes, sir.

Q. And you made him a deed?

A. Yes, sir; the deed might have been made at the time I received the hundred and twenty-five dollars.

Q. When you took the land you had an understanding with Geo. F. White that it was to be taken up for James B. Montgomery, did you not?

A. Yes, sir.

By Mr. STOTT:

Q. What did White say to you about that?

A. He said—he asked me—asked me what I would take it up for; what I would charge for doing it, and stated he had been allowing them that take land in that way one hundred dollars. I told him I would take it for one hundred and twenty-five dollars.

Q. After you had taken it up for Montgomery you tried to take it up for a homestead, did you?

A. No, sir; I do not think I did.

Q. As a preëmption?

A. No, sir.

309 Q. Didn't you come to the land office and file on it?

A. I came to the land office last July to see if I could not take up a part of it as an additional homestead.

By the COURT. You mean you came to the land office to take it up after you had sold it. Try to take it up as a homestead; what do you mean by that?

A. Not until after it was canceled.

Q. After it had been set aside and canceled?

A. Yes, sir; brought into the Government again.

By Mr. WHITE:

Q. What year was that in?

A. '86.

Q. After it was canceled?

A. Yes, sir.

By Mr. STOTT:

Q. Had not you taken this as a preëmption or homestead prior to the time White talked to you about it?

A. I had taken a homestead.

Q. Was you going to abandon it?

A. I couldn't put the necessary improvements on at the time, six months, in which time I could put the improvements on.

Q. Wasn't this what White said after you told him you could not hold it—you could not make the improvements; that you better take it up as a timber claim as long as you had gone to the trouble you had, or words to that effect? Aint that a fact?

A. That might be so on the start; so much of it.

CHARLES H. STOTT, a witness for the Government, having been
310 duly sworn, testified as follows on direct examination:

By Mr. WHITE:

Q. Your name, age, residence?

A. C. H. Stott; my age, 28 10th of last June; my residence, at Mr. Little's logging camp, three miles below Oloqua.

Q. In what county?

A. Cowlitz County, Washington Territory.

Q. Are you acquainted with the SE. ¼ sec. 12, T. 9 N., R. 1 W. of the W. M.?

A. Yes, sir.

Q. When were you on that land; what year?

A. Year '84.

Q. In company with whom?

A. With Special Agent Stubbs and C. N. Hogan, and the surveyor's name was Hauge.

Q. Who else was there?

A. And myself.

Q. A man by the name of Stubbs?

A. Yes, sir.

Q. What was Mr. Stubbs?

A. Special land agent.

Q. State what you did on that land at that time.

A. If my memory serves me right, we started in on the NW. and traveled south to the center of that land, then crossed over to the east meridian line, then went north to the post.

Q. Well, what did you do; what was you doing when on the land?

A. I was chainman.

311 Q. What observation did you make of the land, growth of timber, undergrowth, and character of the soil there?

A. Found the undergrowth to be vine-maple, hazel, hard hack, alder, and such like.

Q. What was the character of the soil, nature, and depth?

A. Soil was rather black loam; we had no way of examining any more than where we would be going through the land; we would find stumps, trees uprooted, and often kick off the top of the soil, and examine it in that way.

Q. Where you found trees uprooted?

A. Found land to be as I have stated.

Q. Have you ever farmed?

A. Well, yes sir; I was born and raised in Cowlitz County.

Q. How many years you farmed in that county?

A. I stayed on the farm till I was eighteen years old.

Q. As the farm you were raised on, how would it compare with the land—this land—the same Budd tract, similar to it?

A. Yes, sir; similar.

Q. Same character of land?

A. That is hill land.

Q. Do you cultivate any of that hill land on your farm?

A. Yes, sir.

Q. What do you have on your hill land?

A. Grass.

Q. What kind of grass?

A. Timothy.

Q. About how many ton to the acre would it grow?

312 A. Well, about two or two and a quarter tons to the acre.

Q. What would you say this land—this quarter section—this of Budd's and Montgomery's that you examined, would produce, if cleared of stumps so as to be put in hay?

A. I judge it would raise about some two, two and a half, or two and a quarter to the acre.

Q. How about producing potatoes to the acre—how much would it produce?

A. I don't know; I could estimate.

Q. What was the lay of that Budd quarter section of land?

A. It was gently rolling in places, and other places it was more steep and rough.

Q. If the timber, trees, and stumps were taken off that land, how much of that one hundred and sixty would you say was capable of being plowed, harrowed, and cultivated, as lands are usually plowed, harrowed, and cultivated in this country?

A. I should think over one hundred acres.

Q. How about that land being cut up with ravines, and stony?

A. We did not find any stone no more than on the east boundary line of the northern part of the eastern meridian line.

Q. How about being cut up in ravines?

A. Some of it, as I have stated, was rather rough.

Q. Cut up with ravines, how about the surface of the land being cut up with ravines?

A. There were not many ravines on it.

313 Q. Would you call it broken land or rolling land?

A. I would call it rolling land; we have land in cultivation to-day at home as steep land as most any on that piece of land.

Cross-examination by Judge STOTT:

Q. You say this would grow two tons and a half to the acre?

A. I said the land there at home would grow about two tons and a quarter to the acre.

Q. Where is this place; on the Cowlitz River?

A. Yes, sir.

Q. Down on the river bottom?

A. No, sir; on this land I speak of would raise this amount of hay.

Q. Where was it?

A. Up on the hill.

Q. Where it was second bench land—bench land was it?

A. No, sir; what is termed hill land.

Q. Did you ever know any land up about Silver Lake producing two tons and a half to the acre?

A. I have not traveled around much in Silver Lake country; I am really a stranger in that part of the country.

Q. Good many fern mixed with the hay, too?

A. A good deal of fern out there.

Q. Did you ever see any of that kind of land in hay or in timothy?

A. Yes, sir.

Q. Where?

314 A. O, havn't saw it there; I have been on farms where they have got entirely rid of the ferns.

Q. Take land thirty or forty feet above the level upon the mountain like this, five or six hundred feet above the Cowlitz River. Did you ever know of any of that raising hay; if so, where and how much?

A. I do not know of any raising hay at such height as that.

By Mr. WHITE:

Q. How high is this land above the Cowlitz River?

A. I could not say that, as I never measured it.

Q. Any ravines on that land when you went on it?

A. There was a prairie there; this prairie that we were speaking about.

Q. This prairie; what was the character of the soil on that prairie?

A. It was of a black loam nature.

Q. How about having any evidence of cultivation about there?

A. Well, yes; there was a small piece of land plowed up.

Q. You were there in what year?

A. '84.

Q. How about that country being opened and settled in '84 around there?

A. It was settled in the neighborhood, not in that immediate part of the country.

Q. Some settlement around Silver Lake was there?

A. Yes, sir.

Q. You been there recently?

A. No, sir; I have not.

315 Q. You don't know about the increase in settlement in that neighborhood?

A. No, sir.

Q. That would be called back country, wouldn't it?

A. Yes, sir.

Q. Back from market?

A. Yes, sir.

By Mr. WHITE. I will offer some documentary evidence that is here. Certified copy of deed from David E. Budd to J. B. Montgomery, of this land in question.

By Mr. STOTT. Their issue about this?

Mr. WHITE. We offer for this purpose: They admit the execution of this deed practically recorded in this book, the consideration mentioned in this deed in a nominal consideration of one dollar. I claim that is a badge and evidence of fraud, and they must explain that matter away. (Filed as EX. B, "1.")

(Defendants object for the reason not in issue.)

The COURT. It is admitted.

(To which ruling of the court said counsel for defendants here and now excepts.)

Mr. WHITE. I offer certified copy of the record, U. S. land office at Vancouver, W. T., certified by the register and receiver under our act, page 118 of the record of abstract of public sales. August 3rd, 1863, so far as same relates to this township.

(All papers marked as exhibits and on file in this case, Ex. B, 2, 3.)

316 (Defendants' counsel object to introduction as immaterial and incompetent.

By Judge DENNISON. A further objection that it does not tend to prove any fact alleged in the complaint.

(Objection overruled, to which ruling of the court said counsel for defendants here and now except.)

Mr. WHITE. Now I offer a certi of record of the lands sold at the Vancouver land office, W. T., first day, October, 1882, so far as relates to entries of tracts stated below. These are entries put in evidence, and closes up that gap. (All exhibited and filed of record in this case, B, 4.) (Same objection offered by defendants' counsel to this objection, overruled, to which ruling of the court, said counsel here and now excepts.)

Mr. Bullock recalled for U. S., the plaintiff, by Mr. White.

Q. Mr. Bullock, what is the value of the timber on this piece of land?

(Defendants' counsel object until it is shown he has some knowledge of the value of such timber.

Mr. WHITE. Any person can testify to the value of such things supposed to be in possession of common knowledge.

Q. What is the value of timber at the present time?

(Defendants' counsel objects; objection is overruled; to which ruling of the court said counsel here and now except.)

A. At the present time?

Q. Yes, sir.

A. At the present time I don't think the timber would pay to
317 manufacture and get to market.

Q. Why?

A. Too far from market; cost too much to get it there; the facilities for getting it to market would cost more than the timber is worth.

Q. Do you know about the altitude of the land surrounding this tract of land in cultivation around there; I ask you if you do know?

A. Mr. Maguigan has a place fully as high, or a little higher; not a great deal, I think That is the only one I recollect around there. But it is steeper to get up to it; it is on a side hill, and we have to go towards the corner.

Q. Do you know of any other land in that section of the country, about the same height or altitude, under cultivation?

A. I think what is called the Norway place—man by the name of Jenkins on it—about the same height.

Cross-examination by Mr. STOTT:

Q. You say this timber is of no value, in your judgment?

A. No value at present as it is now, to manufacture at present. May be of value some time.

Q. Does that land—is it valuable for agriculture?

A. Some of it, and some of it is not.

Q. You working on a farm in the timber now?

A. I am both on the place working in timber and the farm.

Q. You say you are working in both the timber and the farm?

A. Yes, sir.

318 Q. Isn't it true you abandoned farming and engaged in the manufacture of shingle bolts?

A. I manufacture shingle bolts and carry on my place.

Q. You live on the place?

A. No, sir; work on it.

Q. You a man of a family?

A. No, sir.

Q. You never had to support a family on your place?

A. I never had to support one.

Q. You say this Maguigen place is about the same altitude?
A. I think it is a little higher.
Q. What have you ever observed growing on this Maguiggen place?
A. Different kinds of grain, potatoes, wheat.
Q. Raise good crops?
A. Fair; middling. Have seen very good wheat and potatoes grow there. I do not know what the average would be.
Q. Did you see a crop of hay grow there this year?
A. I did not.
Q. Isn't it true that place is covered with a heavy growth of fern?
A. It was, and may be now.
Q. The hay cut there was largely composed of fern?
A. I do not know; not been on the place for some years.

Mr. MAGUIGGEN recalled for the plaintiff.

By Mr. WHITE:

Q. How high the altitude of the place you have there—you
319 testified you went to this land—compared with the altitude of this 160 acres?
A. It is my opinion it is a little higher.
Q. Which is a little higher?
A. Mine.

Cross-examination by Mr. STOTT:

Q. How much higher?
A. I couldn't tell that part.
By Mr. STOTT. I would like to ask, if the court please, this witness a question I didn't yesterday?
Mr. WHITE. All right.
Mr. STOTT. Q. You spoke about Doughty going off that Budd place. How do you know he abandoned it when he went away from that place?
A. For the reason he exhausted his homestead right. He told me he had exhausted his right; he had benefit of the law in Kansas.
Q. Do you know anything about it except what he told you?
A. That is all I know; he was a neighbor.
Mr. STOTT. I move to strike it out.
Mr. WHITE. No, sir; you brought it out without my objection; I object to striking it out.
Mr. STOTT. They asked him yesterday why he moved away; he said, because he had exhausted his right.
By the COURT. I think that is hearsay; I can not get over the idea.
Mr. WHITE. They are asking for reasons this man gives.
By the COURT. That don't make it any better.
320 Mr. WHITE. I do not object to it; they brought it out.
COURT. I think it should go out; the defendant moves to strike out all testimony in reference to that subject; what he says about the man moving away he knows nothing about it except what was told by the party.
(The motion is allowed, and the plaintiff excepts to the ruling of the court.)
Mr. STOTT. Q. Your place is considerable higher?
A. It is some higher.

Q. Is there any other places there in that township as high as yours?
A. I believe the Noony place is higher.
Q. How much?
A. I could not tell.
Q. How far is it away?
A. It is about six miles from my place by road, not that far by sections.
Q. Who lives on that place?
A. There is a man by the name of Jenkins lives there at present.
Q. How long has Jenkins lived there?
A. He moved up there this last spring.
Q. How long has that place been occupied?
A. Occupied when I first came to the country.
Q. You forgotton when you went in there?

(Endorsed:) John W. Cochran, stenographer.

321 A. I went in in '76.
Q. Occupied it ever since?
A. Yes, sir.
Q. How large a place?
A. I do not know the amount of land.
Q. How much improved and cleared?
A. I do not know I could answer that question correct; it is in small patches of land somewhere from twenty-five to thirty acres.
Q. You speak of cutting from sixteen to seventeen tons of hay. How much of that hay was fern?
A. I didn't examine close enough to tell; there was some fern.
Q. Much or little?
A. Considerable.

Mr. WHITE. He is going back onto the same examination of yesterday. I object. The land office is making a certified copy of the platt of this township. It is quite a job to get it done, I want to have the privilege of introducing that certified copy in evidence when I get it during the day.

By the COURT. It is an official map; there will be no objection to that.

Mr. WHITE. I want to call Mr. Austin to show these sections were subject to preëmption and homestead settlements.

Plaintiff rests.

322 Case 1813.

UNITED STATES
vs.
BUDD & MONTGOMERY.

Witnesses. The defense. See index within.

U. S. vs. *Budd & Montgomery. Index defendants' witnesses.*

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193	Walberg.	240	Mrs. Rogers.
203	Huntington, E. R.	244	Mrs. Booth.
212	Rothsy.	249	Mrs. Huntington.

323 The defense, by Judge DENNISON:

The defendants move to strike out—

First. All evidence tending to prove a conspiracy or agreement between the defendants entered into subsequent to August 23rd, 1882.

By Mr. WHITE. I claim this conspiracy was formed long before August 23rd, 1882; all these acts were acts in pursuance of that conspiracy.

By the COURT. The court overrules the motion and defendants except.

Second. All evidence of acts or things done by J. B. Montgomery in acquiring of any land other than the land described in the complaint in this case.

By Mr. WHITE. I simply claim those things were acts of the general conspiracy.

By the COURT. Admitted for the purpose of showing the conspiracy as affecting this tract of land and not as affecting the title to any of the other land.

(Motion overruled. Exception by the defendants.)

Third. All evidence of acts or things done by J. B. Montgomery respecting the land described in the complaint since December 4th, 1882, and all statements made by David E. Budd since that time relative thereto.

Mr. WHITE. We claim these were statements of the general conspiracy, practically the same thing.

By the COURT. Same ruling. (Same exception by the defendants.)

Fourth. All evidence tending to prove a conspiracy or an agree-
324 ment entered into by the defendants at any time to acquire title to any land other than the land described in the complaint in this case.

Mr. WHITE. We claim this was one of the circumstances showing this same general conspiracy. (Same ruling. Same exception.)

Fifth. All evidence tending to prove the conspiracy at all. (Same ruling. Same exception.)

Sixth. All evidence of statements made by George F. White relative to his employment by said Montgomery to examine timber land, because no proper foundation has been laid for the introduction of such evidence.

Mr. WHITE. We claim proof here is, he was one of the conspirators, one of the assistants of Montgomery; he was one of the instruments.

By the COURT. The testimony is admissable on the ground of agency.

By Judge STOTT. I do not know there was any testimony tending to show Montgomery had employed White except alleged statements of White, and I contend that there is no better settled rule of law; you can never show a conspiracy by the statements of alleged conspirators.

By the COURT. Standing alone that would not do. This witness that went on the stand toward the latter part of the evening showed White made certain statements to him, and Mr. Montgomery carried them out.

(Same ruling. Same exception.)

Judge DENNISON. And also, to strike out all evidence of statements made by Geo. F. White relative to his employment by Mont-
325 gomery to examine any land other than timber lands subject to the act of June 3rd, 1878.

By Mr. WHITE. Only introduced evidence to show that that is the kind of land examined. (Same ruling. Same exception.)

Seven. To strike out all evidence of the statements of George F. White relative to other lands than the lands described in the complaint in this case.

(Same ruling. Same exception.)

By Judge STOTT. I move to strike out all testimony relative to other lands of Montgomery's in that vicinity, except timber land.

By the COURT. I will hold a ruling on that. (Ruling reserved.)

O. C. YOCUM, called as a witness on the part of the defendants, being duly sworn, testified as follows on direct examination:

By Judge STOTT:

Q. Mr. Yocum, where do you reside?

A. In Portland.

Q. Your business?

A. I am now engaged in photography.

Q. What is your age?

A. 45 years old.

Q. How long have you been engaged as photographer?

A. Since 1858, bigger part of the time; not constantly, however.

Q. Do you know the SE. corner sec. 12, T. 9 N., R. 1. W., in Cowlitz County?

326 A. Yes, sir; I have been over it.

Q. How many times?

A. Twice.

Q. When?

A. I will have to refer to my book to tell the date I was over it.

Q. This year?

A. Yes, sir.

Q. Give the month.

A. I was over it on May 18th of this year.

Q. Now just state what course you took over that land; who was with you?

A. Mr. White was with me; I think Mr. Vincent was with me the last time I was over it; Mr. Forsyth I think was. Mr. Wallberg I do not just remember. I am not certain, I do not think Mr. Huntington was with me the last time I was over; he was the first time.

Q. Now you say you went over the land; just state what part of the land you went over, and what examinations you made.

A. I started at the center of each 40, and went through to the center of the next, commencing on the west 40, run to the center of the next, then south to the southeast center of the southeast 40, then west to the center of the southwest 40.

Q. What was the character of the land there through which you passed?

A. It was heavily timbered.

327 Q. What was the estimate, say, with reference to its surface?

A. It was rough and ragged.

Q. What with reference to the soil?

A. It was rocks, or gravelly, perhaps.

Q. State whether or not you noticed any openings or prairie; if so, state.

A. There was one opening place I found on it; 15 rods wide and 68 rods long.

Q. You measured it?

A. Yes, sir.

Q. How long?

A. 68 rods long and 15 rods wide.

Q. You say you are a photographer?

A. Yes, sir.

Q. State what kind of a photographer; what particular branch you paid attention to.

A. Landscape proper.

Q. In the times you were there state whether or not you made photographs or pictures.

A. I did; I made twelve.

Q. Were they correct pictures?

A. They were.

Q. Good representations?

A. Of the land where they was made.

Q. Look at those photographs and see whether any of those were made there; and if so, whereabouts on that place?

328 A. This one, 106, was made on the northwest quarter at the center of the quarter looking west.

Q. I offer that in evidence.

A. This 107.

Q. Whereabouts was that made?

A. Same position, only the camera was turned to look north.

Mr. STOTT. We offer that also in evidence.

A. 108.

Q. Where was that taken?

A. That was taken on the northeast 40, five chains from the west boundary of the 40, and looked south. 109, that was taken in the same place, looking north.

Q. Do you know who this picture is; that man there in that picture?

A. It is Mr. Ackley, No. 110.

Q. Where was that taken?

A. That was taken at the center of the 40. The NE. 40 of the SE. quarter of the section looking south. No. 111 is the same place looking west. No. 112 is the northeast quarter of the NE. quarter of section 12, T. 9 N., R. 1 W., looking west; No. 113 is the same position looking east. No. 114 is in the SE. quarter of the SE. quarter, section 12, looking south. No. 115 is the same position looking west. No. 116 same position looking north. No. 117 same position looking east. That is all that was made on the section at that time.

Q. Are those correct pictures of the timber, soil, and surface?

Mr. WHITE. Ask what they are.

329 Q. (Continued.) State what about their being correct.

A. They are correct; correct as any photograph can be made.

Q. You say you was on that land at some other time; state whether at any other time you took pictures of buildings or improvements on that place.

A. I did; I think that was in March; they were taken on that place, section 12.

Q. What you say about their being correct pictures of the house at that time?

A. Yes; correct;

By Mr. WHITE:

What time?

A. Taken last March.

Mr. WHITE. That is long after this suit was brought?

The WITNESS. They were taken last March.

Mr. WHITE. These pictures about the house were taken last March?

By the COURT:

Let them go in for what they are worth.

By Mr. STOTT:

Q. Of whom is that picture, on this picture, who is the person there?

A. That is Mr. Ackley; that is Mr. Vincent, and that is Mr. Vincent [pointing to persons in the photographs].

By Mr. WHITE:

What time was the second trip made?

A. The second trip, I was there May 18th, 1887.

Mr. STOTT. Q. Who, if anybody, did any surveying at the time you was there?

A. I did it myself.

Q. Are you a surveyor?

A. Yes, sir.

330 Q. How long have you lived on this coast?

A. I came here in 1847; been here ever since.

Q. How much of the time have you lived in parts of the country where there was fir timber?

A. Well, I haven't lived where there is much fir timber any length of time, scarcely; Portland has been my home pretty near since 1860.

Q. What, if any, experience have you had in clearing land covered with fir timber?

A. Well, I never cleared any that was covered with fir timber. I lived seven years once in Yamhill, on the Willamette River. Cleared fourteen acres of land—not fir timber, some fir timber—principally ash and maple, on the river bottom.

Q. What you say about the character of this soil for the purposes of agriculture, on this tract up here?

A. I didn't see any I thought would be suitable on that tract of land for agriculture.

Q. What did you notice with reference to rock?

A. There was plenty of it there.

Q. Whereabouts?

A. All over it.

Q. Near the surface?

A. Yes, sir.

Q. What, if any, gravel did you notice?

A. It was all gravel and rock; some places rock would not be so thick; gravel in spots.

331 Q. What, if any, ravines and canyons did you observe?

A. It was all cut up and broken. It is up and down all the way. The levelest place on it is where the cabin is.

Q. Did you estimate the exact amount of land in that open space in that prairie?

A. I measured and know exactly what there was.

Q. What was there?

A. It was 15 rods wide, 68 rods long.

Q. Did you make a computation?

A. I can do it in half a minute.

Q. What was the general character of the timber?

A. The timber is good; pretty fine timber.

Q. How much in quantity per acre of saw timber?

A. Well, I should judge from 100 to 150,000 feet of lumber to the acre.

Q. That was the average?

A. Yes, sir; I think it was the average of it.

Q. What were the size of the trees?

A. The trees were generally large.

Q. How with reference to being high?

A. Very tall and clear.

Q. What was the diameter?

A. From 30 inches to 6 or 7 feet in diameter.

Q. How tall?

A. I think a good deal of it there will go 100, from 80 to 100 feet before you come to limbs.

Q. What kind of trees were there?

332 A. Principally fir.

Q. What other kinds?

A. Some hemlock and some cedar.

Q. What, if anything, did you notice as to salalle and fern?

A. Most of that country is covered with salalle and fern as undergrowth.

Q. Did you notice it on this particular tract?

A. Yes, sir; especially in the opening; fern grows in the openings. To' poor to raise anything else on; the timber won't grow there.

Q. How far up those trees would they be large enough for saw logs; how tall?

A. We measured some there 180 feet, and they were 20 inches at the small end.

Cross-examination by Mr. WHITE:

Q. Will you point out any ravines on those photographs?

A. I don't think I will; I will read the field notes.

Q. Answer my question and take the # photograph, and point out where there are few or any ravines on these # fotographs?

A. I do not think there were ravines *fptohraft*.

Q. Why not take a photograph of the ravines?

A. I was ordered to put my cam*a*ra at the center without discriminating, let it be good level ground or not, and fotograf it.

Q. That the reason you didn't take a photograf of the prairie?

A. I did.

333 Q. Where is it?

A. At the cabin.

Q. Did you take a fotograf of the cabin, which is entirely beyond the prairie; where was the camera placed?

A. I set the instrument so as to include the prairie with the cabin.

Q. Was the cabin made to include all the prairie; did you include all the prairie in the fotograf?

A. Yes, only 38 chains full length of the prairie——

Q. This prairie——

A. Runs down, runs round this way [indicating]; this is the long way of it and this is the short way; this one (39) shows looking east.

Q. Where was you standing when you took #39, the camera set to take #39 with reference to this picture?

A. To the edge of the timber of the opposite side. This is directly in front [pointing].

Q. Where would that camera be?

A. Behind the cabin, of course.

Q. Where was the camera set when you took that?

A. At the south end of the prairie looking north.

Q. Did the prairie run north?

A. Very nearly.

Q. And wasn't part of the prairie obscured by the cabin?

A. Part of the prairie.

Q. Answer the question; wasn't it at the time you took that picture, part of the prairie, obscured by the cabin?

334 A. Certainly it is there, and timber beyond.

Q. Who employed you; who told you where to set your camera?

A. Nobody told me at all; I did it myself.

Q. Who told you to take these views?

A. I was employed by Mr. Buchtel.

Q. Who is Mr. Buchtel?

A. Mr. Joseph Buchtel lives in East Portland. He had the contract to do this work?

Q. From whom?

A. I can't say; he told me he had the contract, and sent me in there to do it.

Q. Were you working on contract?

A. Working for Mr. Buchtel when I made these, and when I made those I was working for Mr. Montgomery.

Q. Didn't you know you were taking these fotografs for Mr. Montgomery to be used in this lawsuit; didn't you know when you took them you were taking them to be used in this lawsuit, and you would be called upon to testify? Answer yes or no. You answer me this question and explain what you please. Didn't you know when you took these pictures—didn't you know you were taking them for the purpose of being used in exhibits in a lawsuit?

A. I did. Here is some more. I didn't know what they were going to use them for.

Q. You took the larger ones before you took the smaller ones?

A. I did not. I took those in March; those in May.

Q. Who went with you when you took these small ones?

335 A. Most of the witnesses here.

Q. Was there an attorney there named Bingham?

A. Yes, sir.

Q. Which Bingham?

A. I don't know only by name of Bingham.

Q. Was there any talk there about taking these pictures to be used in the law suit?

A. There was no such talk.

Q. Who paid you for these pictures?

A. Buchtel.

Q. Who paid you for these?

A. Montgomery.

Q. Did Montgomery speak about these pictures when he paid you for these?

A. I don't recollect his speaking about these pictures at the time. I didn't know Montgomery in the pictures at all.

Q. You knew you was going to be called as a witness?

A. No, sir; I wouldn't have been until I was in there.

Q. You knew when you made these you would be called as a witness?

A. Yes, sir.

Q. To testify as to the character of that land?

A. Yes, sir.

Q. And went there for that purpose?

A. Yes, sir.

Q. And you thought it was only necessary to take the pictures without the ravines on the land?

336 A. I did not think anything of the kind.

Q. What did you think was necessary to do?

A. I was ordered to take certain points.

A. By whom?

A. By Mr. Montgomery. At the center of every 40. When I surveyed where it was possible and no brush that is not too thick to make a picture not to be selected, I could have selected ravines that would show. My orders were not to select, but to do the fair thing.

Q. And you did not think it was necessary to select ravines?

A. Of course not; that would have been putting things on one side. Would that been honest?

Q. If you had been all over why didn't you take any ravines; you have been putting all on the other side, according to your theory.

A. I took at certain points, where I was ordered.

Q. You simply took these fotografs at the point you were ordered to take them? Answer yes or no.

A. I did.

Q. By whom?

A. I said by Mr. Montgomery. I was to survey and go to the center of each quarter, if possible. I should not discriminate at all; go to the center of each 40, if possible, and make four, one looking south, one looking west, north, and east. No difference what it was, and, if possible, to make them. I found some places where it was impossible to make pictures the underbrush was so thick; then I would move on; then

337 the first time I would get where it was open enough to show 50

or 100 feet I would make a fotograf. That is why they are not all exactly in the center of each 40.

Q. You aimed to go to the center of the 40, did you?

A. Yes; as near the center as possible in the fotografs.

Q. And did you?

A. I did.

Q. And these fotografs represent the perspective all around there, so far as taken in by the camera?

A. Yes, sir; as a general thing.

Q. About how much is included in one of these views; how many acres?

A. You can't see one acre in that country.

Q. How many acres would be included in one of those larger views?

A. I do not think there would be an acre included in it, as far as you could see.

By the COURT. How far does the perspective indicate in the distance?

A. Not more than ten rods; because it is so obscured by the timber, it would cut it off not to exceed ten rods.

Mr. WHITE. Q. Then, in these twelve pictures we have views of about one hundred and twenty rods altogether?

A. I presume it would be about that.

Q. In the small pictures, how is it?

A. The timber does not cut off there to obscure it until it goes 68 rods; for I measured it.

Q. How many?

338 A. 68 in one, 15 in the other; then the timber cuts it off; can't see any further.

Q. Are you a surveyor?

A. I have surveyed a little.

Q. Where?

A. In 1872, in Government survey on the Nebalen River.

Q. What did you do?

A. I was axman at the first, marker at the start, and run the compass; Mr. T. B. Hauley had the contract.

Q. Where was the next surveying you did?

A. I didn't do any more until I went over to survey this.

Q. That all your experience in surveying?

A. That is about my experience in surveying.

Q. You call yourself a practical surveyor with that experience?

A. I don't call myself a surveyor.

Q. You don't call yourself a practical surveyor?

A. I can survey; I don't follow in as a business.

Q. Did you have any chain out in order to know when you were getting in the center of the 40?

A. I rather think I did.

Q. Answer my question?

A. I know we did.

Mr. WHITE. If you answer yourself, it will be a complete answer.

By Mr. STOTT. I object to instructing the witness.

Mr. WHITE. Q. I will ask the question again: Did you chain

339 out when you went into the center of this 40, the distance?

A. We did chain the distance.
Q. From where did you start?
A. I thought, from the section, I started from the NE. corner of the section.
Q. How did you know you were on the northeast corner?
A. By examining the witness trees at the corner.
Q. What did you see on these witness trees?
A. The usual marks.
Q. State what they were.
A. On section 12 it was T. 9 N., R. 1 W., S. 12.
Q. You saw these letters?
A. Yes, sir.
Q. On the trees?
A. Sometimes couldn't find the trees.
Q. I am speaking of that corner where you started from.
A. Sometimes on the stake.
Q. I am talking about the corner; was that a corner stake or witness tree?
A. I can't say; I did not make the note.
Q. Now you do not know whether that was witness trees or stake at that corner?
A. I know I was at that corner.
Q. Do you know whether they were witness trees or stakes at the corner?
A. I can't say.
Q. If you can't say whether they were stakes or trees, how can you testify as to the letters you saw?
340 A. I never examined any but what I found at one corner to be sure I was at the proper place.
Q. Explain. If you could not tell whether it was witness trees or stakes at the first corner you meant to start from, how can you tell the letters you saw?
A. Yes, sir; I can tell them.
Q. What reason led you to believe the letters were there?
A. I examined to see whether it was the proper corner.
Q. And did not notice carefully whether it was trees or a stake as to this particular starting corner, the first corner you went to?
A. I know I was at the corner.
Q. You made a memorandum of everything you thought important there then?
A. I did not make a note of everything. I was at that corner. I will swear to that positively.
Q. Not lived where there is much fir timber, have you?
A. No; I have been travelling for several years through fir timber.
Q. Been living in Oregon a good while?
A. Yes, sir.
Q. Where?
A. In Portland.
Q. What have you been doing?
A. That's my headquarters for *fotografing* work.
Q. What kind of work?

A. Landscape *fotografy*.

341 Q. How long you been engaged in that?

A. Commenced in the Northern Pacific R. R., in 1880; I done the bigger part of their work up to 1883.

Q. Before 1880 where were you working?

A. I was grubbing up in Yamhill County.

Q. On this 14 acres of bottom land?

A. Fourteen acres I grubbed.

Q. And that is the extent of your farming?

A. Pretty much the extent. I have farmed pretty near three years, outside of that, near Dayton, Oregon.

Q. You never farmed on upland, hill, fir farming land in Washington Territory?

A. Never did; don't want to.

Q. Too hard work to make a farm on the up-hill land?

A. It would be where it was heavy timber.

Q. It would require hard work?

A. A little more than I would be able to do.

Q. Did you ever log?

A. No, sir.

Q. Ever engage in the logging business?

A. No, except what land I cleared; cleared fourteen acres of ash, &c.

Q. What kind of timber?

A. Principally ash.

Q. If you never had experience logging, how can you say there was 150,000 feet to the acre?

A. I took pains to count the trees.

342 Q. How many trees did you count on any one acre?

A. I counted 40.

Q. How did you know you was counting an acre?

A. We took accounts there on one place, chained around it.

Q. Did you chain around an acre?

A. One acre and counted the trees.

Q. Where was that place?

A. On section 22.

Q. Any on this piece of land at all?

A. No, sir.

Q. When I asked you if you surveyed, chained around an acre, that you did not answer; now did you count the trees on any acre of this land?

A. No, sir; not to measure it, only estimated it.

Q. Why didn't you?

A. I can't tell you why; if I had known you wanted it done I would have done it.

Q. How can you tell me this land would go from 100 to 150,000 feet of lumber to the acre?

A. A person can judge pretty near the distance and count the trees—measure the trees.

Q. Did you count any trees on an acre of this land and measure the distance?

A. And measure it? I did not.

Q. Did you count the trees on an acre of this land?

A. And not measured an acre.

343 Q. What you can judge about an acre is what you saw from the eye?

A. That is it precisely.

Q. Now, this small picture 38, there is a little skirt of timber at the foot of the prairie ain't there?

A. It sets in timber right there.

Q. I will ask you the question, is not there a little skirt of timber at the foot of that prairie, and beyond that skirt of timber there is another opening? Answer yes or no.

A. I do not think there is any on that quarter.

Q. Did you go down that way to see?

A. I went down the road.

Q. Did you go down there to see whether there was an opening or not?

A. There is an opening where that house is.

Q. Beyond that timber surrounding that prairie on the north side, is there not yet another opening.

A. I did not see any other.

Q. You did not go to look?

A. I followed down north?

Q. And didn't see any?

A. I did not see any.

Q. Is there not a small lot of timber separating this prairie from another opening?

A. That is another place.

Q. What place is that on?

A. I do not know whose place it is.

Q. There is a separation from another place?

344 A. There is a strip away down there. There is two houses belonging to another place.

Q. On the adjoining place?

A. Not on this place, but on another place right below.

Q. A rancher's house and farm?

A. Yes; intended for that, people have left that, nobody there when I was there.

Q. Didn't you know one of those houses were occupied yet?

A. Not that I know of, not when I was there.

Mr. AUSTIN, register of the Vancouver land office, as per previous announcement by Mr. White, was then sworn as a witness for the plaintiff.

On direct examination testified as follows:

By Mr. WHITE:

Q. This is the original map of plats in the land office. What official position do you hold?

A. Register land office, Vancouver, Washington Territory.

Q. I ask if these lands were subject to sale under the homestead laws of the United States in that section 12, T. 9 N., R. 1 W., of W. M.? (Objected to.)

A. There should have been—(defendants counsel object; it is immaterial. It makes no difference whether subject to pre-emption or homestead entry or not.)

By the COURT:

Let it go in, ruling reserved.

A. It has been and is, for a long time, ever since the survey.

The COURT:

Q. That section embraces this property?

Answer. Yes, sir.

(Original map.) Certified copy of which, filed in the case.

345 C. E. FORSYTH, called as witness for the defense, being duly sworn, testified on direct examination as follows:

By Mr. STOTT:

Q. Your age, occupation, and residence?

A. Age, 37; residence, half a mile from Castle Rock; I am a farm hand.

Q. State whether at any time you ever lived in the vicinity of T. 9 N., R. 1 west; if so, when and how long?

A. I held a claim there when I first came to the country, a homestead claim; held for three years, township 10, 1 east.

Q. State what, if any, experience you ever had in clearing and farming hill lands covered with timber in that vicinity?

A. This was open prairie land nearly; some small fir on it.

Q. That you farmed?

A. I put up a cabin, broke up about half an acre, and put in one crop.

Q. Are you acquainted with the SE. ¼ sec. 12.

A. I have been on the land.

Q. When and how often on the land?

A. Once in May 18th, 1887.

Q. Where did you go on the land and over what parts of it did you go?

A. We began at the center of the section, then ran south 40 rods, thence east 120, thence south 80, thence west 80 rods.

Q. Who was with you at the time?

A. Mr. Yocum, Ackley, White, and H. M. Montgomery, and Mr. Walberg. That is all I remember just now.

Q. What, if any, examinations did you make of the surface of the land?

346 A. We went over it on that line. Had an aneroid instrument with us, examined the surface, one of the men had a kind of prod an inch wide at the bottom, like a walking cane, all we had.

Q. What was the character of that land with reference to being smooth or level or broken?

A. It was neither smooth or level.

Q. What was the character?

A. It was broken, more or less rolling.

Q. How much?

A. By the instrument, the greatest fall on our line did not vary—line we chained look like a sharp acute angle, 80 feet fall, 90 feet rise.

Q. Rise and fall on what distance?

A. On 120 rods between stations, between each (20) rods.

Q. What did you observe with reference to rock and gravel?

A. Plenty of rock and gravel.

Q. What proportion?

A. On the lines where we were, there was probably more than half of it would be of no use whatever.

By the COURT:

Q. More than one half?

A. Yes, sir; on the lines we ran.

Mr. STOTT:

Q. For what reason?

A. Too many rock.

Q. And gravel?

A. Some gravel, more or less.

Q. Where were the rocks with reference to the surface.

347 A. On the surface of the ground.

Q. What do you say about the soil; character of the soil?

A. Some soil was good apparently.

Q. How much?

A. We ran through one tally of 20 rods, 10 rods of it almost solid rock alone, on top, ten (10) rods good, another tally where was large fir timber, soil there apparently good, covered with brakes, generally indicated good land, how deep I do not know.

Q. Did you dig down?

A. Some did; I did not carry the prod.

Q. You did not examine?

A. I did not.

Q. What was the character of the timber?

A. Good timber.

Q. What was the quantity?

A. On thirteen averages, the timber large, that would measure 44 inches in diameter and thirty-four trees to the acre, on an average of thirteen.

Q. How tall could they be used for logs?

A. 160 feet, putting it low, at twenty inches from the top.

Q. Did you notice this prairie?

A. Yes, sir.

Q. How large was that prairie?

A. 15 rods wide by 68 rods long.

Q. Did you compute the number of acres?

A. I did.

348 Q. What is the amount?

A. Six and three-eighths acres.

Q. What was the character of soil on that prairie?

A. It grow salalle from 4 to 12 inches high, and fern, and on the prairie fern was short, on two sides of the prairie was rock, the center of the prairie did not show rock to any great extent; some.

Q. What would you say about that land being fit for ordinary crops, wheat and potatoes?

A. It would be useless to me.

Q. What would you say about it raising ordinary crops?

A. It would raise ordinary crops to a very limited extent.

Q. How many potatoes could be raised on an acre there with good fair cultivation?

A. I have an idea you might get 25 or 30 bushels.

Q. How much wheat?

A. I could not tell; would get principally fern.

Q. State whether or not you raise potatoes and produce on similar land as that opening?

A. Yes, I think I did.

Q. When?

A. I think it was in '76.

Q. Now, what was the result of your farming?

A. I broke up about half an acree, plowed thoroughly, harrowed it; I presume I got twenty-five or thirty bushels to the acre, probably fourteen or fifteen bushels of it turnips that were about the size of a hen's egg on an average.

349 Q. What care did you exercise in preparing this land and planting a crop?

A. Plowed it thoroughly, harrowed it thoroughly—harrowed it twice.

Q. Do you know anything about these other farms there, for instance, Mr. Carnine's?

A. Yes, sir.

Q. How long have you known that place?

A. Since '76, I think.

Q. What, if any, crops have you seen growing there?

A. I saw wheat and potatoes.

Q. Now, what is the character of that land as compared with the land on this tract?

A. I presume it would be similar. It is on a level. I presume the land is similar.

Q. How much difference in level?

A. If I remember right the tract in question—the Budd tract—is 480 feet above the lake, Carnine's ought to have been not to exceed one hundred.

Q. What, if any, bottom land has Carnine?

A. Carnine has No. 1 bottom land—A 1.

Q. Down at the foot of the lake?

A. Yes, sir; there is where he raises his principal crop.

(Objected to.)

By the COURT. You may go on and tell all you know about the land, and compare it with any other he knows of.

Mr. STOTT. Mr. Forsyth, how much of this hill land has Mr.

350 Carnine in cultivation?

A. I could not tell you.

Q. Has he any 40 acres?

A. That I do not know.

Q. Do you know how many acres of timber land he has?

A. No, sir; I do not know how many acres.

Q. You know this place of Dixon's?

A. Yes; I have been there.

Q. Have you been there of latter years?

A. Not on Dixon's land of late years; no, sir.

Q. Now, do you know anyone in that section of the country that raises produce on any of these farms, enough to support an ordinary family?

A. Not one.

Q. How about this place of Carnine's; was not that an open prairie originally?

A. Part of that was open prairie; there was timber scattered over, some larger and some smaller, fern prairie.

Q. State what about that being known as Stokes' prairie?

A. I do not know.

Q. You was not there when first settled?

A. No, sir.

Q. Dixon's land is down by the lake, too?

A. Yes, sir; that is on lower level with Mr. Carnine's.

Q. His runs right down to the lake?

A. Yes, sir.

Q. What kind of undergrowth is through this timber land, this particular tract?

351 A. There would be in the prairies; it would be fern and an undergrowth of salalle. There is some vine maple, young, little stubbs of trees, few trees of alder, some small cedar and hemlock.

Q. Up on the high parts; that all high land?

A. It is all high land; what you call high land.

Q. What you say about the cost of clearing this land as compared in value, for any kind of agriculture?

A. The cost would exceed the value.

Q. How is this undergrowth, heavy or light?

A. In some places light and some very heavy.

Q. How much of it is very heavy?

A. I do not know whether you mean trees, undergrowth, or salalle.

Q. Small brush outside of the trees.

A. On the line we traversed I presume one-fourth of it would be very thick.

Q. How about the remainder?

A. That would be lighter.

Q. What would be the expense of removing the undergrowth and preparing it for pasture land as compared with the value of this land for pasture?

A. If you remove the undergrowth it would be of no value; the heavy timber there would shade it.

Q. Did you have an instrument along with you for ascertaining the altitude?

A. Yes, sir.

352 Q. What was it?

A. An aneroid barometer.

Q. And from that you got the altitude?

A. Yes, sir.

Q. Did you know this Maguigen place?

A. Yes, sir.

Q. Did you observe the crops growing on that place this year when you were up there?

A. May 18th, yes; what was growing.

Q. What, if any, hay did you observe there growing?

A. The hay on May 18th would be all last year's crop, or not cut.

Q. I mean was grass growing there to be cut?

A. Yes, sir.
Q. What was its character?
A. Timothy hay and fern.
Q. What proportion was fern?
A. About half and half I should judge.
Q. Do you know whether this claim includes all that prairie from the observation you made there that day?
A. No, sir; there was two prairies; this claim would take all of the one where the cabin is entirely.
Q. How about the other prairie; how much of that would it take?
A. We passed through another prairie of about one acre.
Q. On this tract?
A. On this tract of land, yes, sir.

353 Cross-examination by Mr. WHITE:

Q. Who requested you to go there?
A. J. B. Montgomery.
Q. Who was this man White that was with you?
A. George F. White, of Silver Lake.
Q. The gentleman sitting here at the table?
A. Yes, sir.
Q. Who was this H. M. Montgomery?
A. Mr. Montgomery's son, I presume.
Q. Were you in the employ of Montgomery when you went there?
A. Yes, sir.
Q. How long have you been in the employ of Montgomery.
A. I think at that time about two days.
Q. Have you been in the employ of Montgomery frequently?
A. I have been in Montgomery's employ in the examination of these lands, this tract.
Q. Had you been in his employ frequently on other matters before you went there?
A. No, sir.
Q. Have you had anything to do with any of his lands in that section of the country?
A. Yes; I recorded deeds; some of them.
Q. You recorded deeds for these lands?
A. Yes, sir.
Q. Are you the C. E. Forsyth mentioned as the officer with whom these deeds were filed for record?
A. I filed no deeds for record.

354 Q. Did you file them with the auditor?
A. No, sir; I left them for filing.
Q. You left them?
A. Yes, sir.
Q. At the request of J. B. Montgomery?
A. At the request of my wife.
Q. How did she get them?
A. Some one left them when I was away from home.
Q. Do you know who left them?
A. No, sir.
Q. Who furnished the money to pay for recording these deeds?

A. I think Mr. Montgomery did.

Q. Don't you know he did; you didn't pay for it yourself; you didn't go round recording deeds unless paid for it?

A. If sure pay—

Q. Who paid for these?

A. Either I or Montgomery; I had my money put up.

Q. And you got it back from Montgomery?

A. Without a doubt.

Q. What financial relations existed between you and Montgomery along about that time?

A. No more than a business deal.

Q. What business deal; he paid you back for deeds taken and recorded?

A. Certainly.

Q. Where do you live?

A. In Cowlitz County.

355 Q. You were up in Portland a while?

A. Have been.

Q. Have you ever taken up any timber land under this act?

A. Yes, sir.

Q. In this neighborhood?

A. No, sir.

Q. Your entry was canceled?

A. It was after.

Q. You let it go?

A. I did.

Q. When was it you took yours up?

A. Sometime in '80——

(Objected to as immaterial.)

——the land was no good anyway.

Q. You say the soil was good where the large timber was?

A. Apparently.

Q. How many large trees on these places?

A. In places, twenty-five.

Q. How many large trees to the acre would there be?

A. Thirty-four, on a thirteen average.

Q. Pretty good average?

A. Yes, sir.

Q. Pretty good timber land?

A. Fine body of timber.

Q. It takes good soil to produce that kind of timber, don't it?

A. Not necessarily.

Q. It was good soil that produced that timber there?

A. At the looks on the outside, yes; only in places.

356 Q. You examined all places, didn't you?

A. Oh, yes; more or less.

Q. If the timber was all taken off this land and the stumps grubbed out, don't you think it would make pretty good farming land?

A. No, sir.

Q. Why not?

A. Too many rock and stone; nor much life to the land; kind of clay.

Q. Kind of clay subsoil?

A. That is what you might call it.
Q. Clay loam?
A. I don't say that.
Q. You never farmed that kind of land?
A. I think not.
Q. That was open prairie land you farmed?
A. No, sir; not entirely.
Q. What causes the prairie through this timber?
A. A burn.
Q. Has a very extensive burn gone over that timber and burned up the soil?
A. Generally.
Q. If you didn't have such a burn as that the soil would be pretty good?
A. A burn would certainly damage it.
Q. It will burn down trees and roots and leave nothing but open prairie?
A. Leave burned brick clay.
357 Q. Burned out everything?
A. Yes, sir.
Q. Required a pretty hot fire?
A. Yes, sir.
Q. To burn such a prairie as that down, where you saw this cabin, it would require a very hot fire?
A. Yes, sir.
Q. Burn the timber off; the timber was heavy there as elsewhere on that claim?
A. Yes, sir.
Q. And burned up all the soil that was there?
A. Yes, sir.
Q. The only kind of farming you done on that kind of land is on those prairies?
A. Yes, sir.
Q. That is where you raised turnips about the size of a hen's egg?
A. Yes, about.
Q. And twenty-five to thirty bushels an acre?
A. Yes, sir.
Q. Now, suppose the timber was removed off this land and it was piled in log heaps, and the brush cut down and piled up and burned in that way, at the season of the year when not exceedingly dry, so as not to burn up the soil, what would be the result to the land?
A. Burn up your mold.
Q. Burn some?
358 A. Burn it up entirely.
Q. You sure?
A. Quite positive.
Q. Have you tried it?
A. I saw where fire run over this year, same kind of land, burned up clean.
Q. I am talking about clearing it the way I suggest?
A. Never saw it just in that shape.
Q. Don't you know that is the way farmers clear their land?

A. Very apt to.

Q. If this land was cleared in that way I speak of, with ordinary care, so as to prevent exceeding large fires, at very dry season of the year, very dry period of the season, and this timber already taken off, the roots taken out, don't you suppose that land would support a family?

A. It would take a vast amount.

Q. Would a hundred and sixty acres furnish a home for a family?

A. An acre would furnish a home.

Q. I mean a home and support; that is what I mean, you know.

A. I think not.

Q. Wouldn't it grow hay?

A. Very little.

Q. Wouldn't it grow wheat?

A. Very little.

Q. Or potatoes?

A. Some, of course.

359 Q. Wouldn't it grow turnips?

A. Very small.

Q. What have you been doing the last five years?

A. I have been auditor of Cowlitz County. Store business, more or less working on the ranch.

Q. In the last five years how much work have you done on your ranch?

A. A little over a year.

Q. That is the ranch you speak of?

A. No, sir.

Q. Where was that ranch you worked on?

A. In Cowlitz County, on the river.

Q. On the river bottom?

A. Yes, sir.

GEORGE VINCENT, a witness for the defense, being duly sworn, testified as follows on direct examination by Mr. Stott:

Q. Your age, Mr. Vincent?

A. 26.

Q. Full name?

A. Geo. Vincent.

Q. What is your occupation?

A. I have a homestead.

Q. Where?

A. Near Silver Lake, Cowlitz County.

Q. What section and township?

A. Section 14, T. 9 N., R. 1 west.

360 Q. How far is that from this particular land, section 12?

A. In a direct line about a mile and ¾ to sec. corner.

Q. Are you acquainted with this tract, S. E. cor. sec. 12?

A. I am.

Q. How many times have you been on it?

A. I have been along the west edge of it a good many times, along that trail; only went to see the land to examine it once.

Q. When did you examine it?

A. Last March.

Q. That the time Mr. Yocum was out there?

A. He was with us at the time.

Q. Now state where you went on it and what examination you made of it.

A. We went on the tract at the northwest corner of the tract of this S. E. ¼, then we went west 40 rods, then we ran south 120 rods, then we ran west 120 rods, then we went back on that line 40 rods, and ran north 80 rods.

Q. Now, what was the character of the land for surface soil, timber, &c.?

A. It is a rough, rolling piece of land, some parts of it considerably broken; the soil is poor, being considerable gravel and rock.

Q What is the immediate surface of the soil; what kind of soil is on top?

A. It is light vegetable mold on top for a piece.

Q. How deep is that?

A. Not to exceed three inches, I don't think.

361 Q. What, if any, experience have you had in clearing land in that vicinity or on the coast—this fir land?

A. I have worked at it some every year for the last ten years.

Q. What do you say would be the effect on that vegetable mold of fire sufficient to destroy brush timber on that land to get it out of the way?

A. It would burn all the substance out of it.

Q. Now, what, if any, canyons or ravines did you observe?

A. There is several small ravines along on the route that we run, all indicating a large ravine which we did not cross.

Mr. WHITE. Let him state facts.

By the COURT. Let him state facts.

Mr. STOTT. Just what you saw—what obstructions, if any, would those ravines be to cultivation?

A. They would be a serious injury to cultivation, on account of making the ground rough, being too steep to work over.

Q. What, if any, prairie or opening did you notice?

A. Small openings on the west side of the plain.

Q. What is the character of the soil there?

A. It is principally gravelly.

Q. Some rock through it; is that near the log cabin?

A. Yes, sir.

Q. Have you seen those pictures there of the log cabin?

A. I have.

Q. Was one of those pictures, the person there, a picture of

362 yourself [witness looking]?

A. There is a picture of me.

Q. What underbrush did you say there was on that prairie?

A. It was covered with a growth of short salalle brush; fern; some Oregon grape.

Q. What did that undergrowth on that prairie indicate with reference to the soil?

A. (By Mr. WHITE.) Let him state what kind of land that kind of undergrowth grows on; the court will say what it indicates.

By the COURT. If he knows what kind of land that kind of undergrowth usually grows on?

WITNESS. It grows on all kinds of land, but where it grows short, like that, it indicates poor soil.

Mr. STOTT:

Q. What is the character of the undergrowth over the remaining portion of the land, except this prairie?

A. There is salalle brush quite general all over the place; fern scattered through it; it was small ferns, cedars, hemlocks, some such, skookum wood; some elder brush scattered around.

Q. What is this wood you call skookum wood?

A. It is frequently called arrow wood; I don't know its proper name; some call it tassel wood.

Q. How much would it cost an acre on an average to clear that land so it could be plowed and cultivated?

A. Do you mean to clear it like to make a prairie out of it?

Q. Clear it so it could be plowed and leave the stumps in.

A. I would estimate it about one hundred dollars an acre.

363 Q. How much would it cost to clear it and take stumps out and roots, so it could be all plowed?

A. To do it by manual labor, without the use of explosives, I would estimate three hundred dollars.

Q. Take the cheapest way it could be done?

A. Could be done cheaper by using blasting powder.

Q. How much would it be worth, when so cleared, for agricultural purposes?

A. I do not think the value would be very great, on account of the quality of the soil and the lay of the land.

Q. At what would you place the greatest value on it cleared?

A. About five dollars an acre.

Q. You speak of manual labor; is that the ordinary way of clearing land in that country?

A. It is.

Q. What is the size of the timber?

A. The timber is large.

Q. How many thousand feet per acre of sawlogs, or did you make an estimate?

A. I made an estimate when I went through there; about one hundred and fifty thousand feet to the acre.

Q. What is the character as to being good or bad?

A. It is good..

Q. What is the value of that land for timber?

A. Not less than ten dollars, in the present condition.

Cross-examination by Mr. WHITE:

364 Q. You say it is worth ten dollars in its present condition for timber?

A. For timber.

Q. On a speculation, is it not?

A. Yes, sir.

Q. As a matter of fact it is not worth anything to take the timber off at the present time, is it; you can't take that timber off at present time, can you, without having roads put in there to get it out; no market for it?

A. There is no demand for lumber.

Q. Is there a market there for that timber there; any way of getting it out? You can tell me whether there is any way of getting that timber out now?

A. I do not know as I exactly comprehend your meaning.

Q. I mean is there anyway of getting the timber out, so it will pay a profit to go in and take that timber out now and get it to market?

A. I do not think there is.

Q. Why?

A. The expense of getting out the timber on that one tract would be too great to make it profitable for that small piece.

Q. You have a claim in near this piece?

A. Yes, sir.

Q. How far from this?

A. Mile and three-fourths in a direct line.

Q. You got good timber on your claim?

A. Not much.

365 Q. Any farmer around there got good timber on theirs?

A. I hav'n't been over the other settlers' claims to a very great extent.

Q. You have settlers there?

A. Yes, sir.

Q. On similar land as on your claim; like this land?

A. Not near so high.

Q. I am asking you if you have got some land like this land?

A. Something similar.

Q. How many acres of yours is similar?

A. I never measured it all to find out.

Q. Give us a fair estimate.

A. Some 40 or 50 acres.

Q. Is yours a homestead?

A. Yes, sir.

Q. In same township?

A. Yes, sir.

Q. You hav'n't proved up on your homestead?

A. No, sir.

Q. How long have you been there?

A. Four years and a half.

Q. Where did you come from there?

A. To Washington, from Oregon.

Q. How many acres you got cleared up?

A. I have only one acre I cultivate.

Q. Been living there four years; it is this bottom land you cultivate?

A. Not all of it.

366 Q. Some of it upland, like this?

A. Yes; small portion.

Q. How much?

A. About half.

Q. Only cleared about half an acre of this land?
A. Yes, sir.
Q. In four years. That correct; been living on your claim four years?
A. Yes, sir.
Q. How long did you work at that clearing; that half acre?
A. I never counted the time to ascertain.
Q. Didn't stay at home to work; you worked out?
A. Yes, sir; it was necessary.
Q. When you can't work at home you go out to work?
A. Yes, sir.
Q. And when you have spare time you clear up land?
A. Yes, sir.
Q. That is the way you are trying to make a home in good faith?
A. Yes, sir.
Q. The soil wouldn't exceed three inches, you say?
A. Vegetable mold.
Q. What is the depth of vegetable mold and soil on the land where this heavier timber stands; on this 160 acres in controversy here?
By the COURT. Answer the question.
A. As soon as you get through vegetable mold there is a sub-
367 soil; a kind of clay loam; I do not know the depth of it.
Q. Why don't you know the depth of it?
A. I never dug down to ascertain.
Q. Never was enough interested in it to measure it, was you?
A. No, sir.
Q. Did the people who went along there measure the depth of the soil?
A. No, sir.
Q. Who was with you?
A. There was R. H. Habersham, Mr. Yocum, Mr. Forsyth, W. H. C. Day, Mr. Ackley, Mr. Carlton, G. F. White, E. R. Huntington.
Q. That was when you were taking the fotografs, was it?
A. The fotografs were taken at that time; yes, sir.
Q. The soil was not measured?
A. No, sir.
Q. You say the opening is gravelly?
A. I would call it that; yes, sir.
Q. Large or small gravel?
A. Small gravel.
Q. There are in fact two openings there, are there not, pretty nearly connected?
A. There is another little spot in there; whether of sufficient extent to be called an opening or not, I do not know.
Q. Ain't there still a smaller opening north of the prairie on which the cabin stands?
A. I don't think there is, what would be called an opening. There is a thin spot of timber directly north of that.
368 Q. How many acres in that thin spot of timber?
A. I do not know.
Q. What kind of timber on that thin spot?
A. Principally fir.

Q. What kind of undergrowth?

A. Such as is common there.

Q. What is the size of the undergrowth on this land where the large fine timber is growing you speak of; for instance, what size of salalle on that?

A. In some places very rank, being four or five feet high, or longer.

Q. Salalle grows low when the land is poor, don't it?

A. I believe so.

Q. Very little and scrubby. How high does salalle usually grow when it grows on good soil?

A. I have seen some very rank salalle in that vicinity.

Q. How high does Salalle usually grow when it grows on good soil?

A. I should think from three to four feet.

Q. Do you know of a species of vegetables known as the the devil's walking stick?

A. I believe I do.

Q. What kind of land does that usually grow on?

A. It generally grows where the ground is wet.

Q. And on what kind of soil generally?

A. The soil, I believe, is generally good.

Q. Did you notice any devil's walking stick over this piece?

369 A. In a few places, yes.

Q. The devil's walking stick is similar in kind to what is *is* known as the skookum wood, is very hard wood; the young shoots grows very straight and slim.

Q. Kind of hazel?

A. Grows in size similar to hazel.

Q. Small fern grows on what kind of land?

A. Poor land.

Q. How high have you ever seen fern growing?

A. I have seen fern growing higher than I could reach.

Q. What kind of soil does that grow on?

A. I think that grows on good soil.

Q. Did you see any high fern on this soil in the woods where the large timbers were growing, among the large timber?

A. There was some fern there growing up three, four feet high, I guess.

Q. What time of the year was it you were there?

A. It was March I was there.

Q. When does this fern have its full growth?

A. Along in the summer sometime; it is owing to how soon it starts.

Q. That fern you saw in March, from the size then, how high would that fern be when it had its full growth?

A. This fern I saw had its full growth; it was the year-before fern.

Q. You say it was three or four feet high in some places?

370 A. Yes, sir; in some places.

Q. Was any higher than that?

A. Not as I remember of.

Q. Don't hemlock usually grow on pretty good soil?

A. Sometimes.

Q. Does hemlock grow on poor soil at all?

A. I think it will.
Q. The size it grows will show the good soil, whether the soil is good?
A. Sometimes; yes, sir; but not always.
Q. Was there any large cedar trees there?
A. A few; yes, sir.
Q. How large was the largest cedar trees you saw there?
A. I did not measure to ascertain; I think about four feet in diameter.
Q. You tell me cedar such as that grows on poor soil?
A. In some places.
Q. Have you ever seen cedar 4 feet in diameter growing on poor soil in this country?
A. I think I have.
Q. Where; try to think of the soil you saw cedar four feet in diameter growing on that is poor soil?
A. In that vicinity over there.
Q. Cedar generally grows to that size where the ground is wet or damp?
A. It grows principally in lower lands, occasionally in high lands.

Q. Now, you think it would cost two hundred dollars an acre
371 to clear that land so you could cultivate?

A. I do, to clear it.

Q. If you had a market for timber there, what would the timber be worth an acre?
A. About seventy-five dollars an acre, I think; sell it for stumpage.
Q. At the rate of seventy-five dollars an acre if you had a market?
A. I think so.
Q. If the timber was all taken off and the stumps all taken out, how many acres of it would be susceptible of *of* cultivation, in your opinion, if the timber was logged off and care used in cleaning up the ground, spending thirty dollars an acre to preserve it?
A. Do you mean how much is level enough to be cultivated readily?
Q. Yes, sir.
A. I think forty acres.
Q. Will not the whole piece?
A. Not more than forty acres.
Q. You were over the whole piece?
A. To the center of each forty.
Q. You think only forty acres could be cultivated?
A. Yes, sir.
Q. That is all the land could be plowed?
A. To advantage, I think.

Q. Is there any high peaks in it?
372 A. I do not know whether the hills run up to peaks or not.

Q. Isn't it a rolling piece of land; not broken by abrupt canyons, is it?
A. In some places.
Q. How deep is the canyons?
A. Those I crossed?
Q. I don't want you to speak about anything except what you know yourself—seen with your own eyes.

A. I could not state the exact depth of them. The sides of them were too steep to cultivate.

Q. How far was it from the top of the hill down to the bottom?

A. I could not state that.

Q. Fifty feet?

A. Some more and some less.

Q. Some less?

A. I believe so.

Q. Was the land sloping to the bottom or was there an abrupt break off?

A. Some sloping.

Q. No ledge of rocks or anything there?

A. No abrupt ledge like a precipice.

Q. No water running through these ravines?

A. Yes, sir.

Q. Pretty well watered piece of land, aint it?

A. I think it is.

373 Q. In going through the center of the two southeast forties, did you find any ravines that would interfere with the cultivation of land whatever.

A. I crossed two, I think.

Q. Answer yes or no, if you did.

A. Yes, sir.

Q. In what way would they interfere; how many ravines?

A. There were two ravines that were so steep I think it would make it impracticable to cultivate over.

Q. And when you say it would cost two hundred dollars an acre to clear this land, what kind of clearing do you mean?

A. To clear it of timber, stumps, and roots; make it clear ground, similar to prairie.

Q. You mean to dig out the stumps and roots?

A. Yes, sir.

Q. Remove the timber on the land?

A. Yes, sir.

Q. Is that the way farmers usually clear farms in this country or any place?

A. No, sir.

Q. How do they usually clear farms in this country?

A. They first remove the timber and smaller stumps, and cultivate around the larger ones.

Q. And let them rot out?

A. Yes, sir; if they get tired waiting, cut them out.

Q. Fir stump will burn out?

A. Most times.

Q. Generally, won't they?

374 A. Not generally, without putting chunks to keep them afire.

Q. Fir wood is very full of resin, resinous?

A. Some trees are.

Q. You bore augur holes in two sides of the tree and set a fire in them and burn them down. Havn't you known fir trees, such as you see on that land, to be completely burned up in that way?

A. I have never known any to be completely burned up.

Q. Burned up all but the top; burned until came to the first knots?

A. Some portion of that.

Q. Start at the root and burn all up?

A. Yes, sir.

Q. You have known them to catch fire when fire was running through the woods; burned in that way frequently?

A. Occasionally.

Q. If there was a market for their timber there, a mill located upon that land where they could sell their timber as they cut it and cultivate the land, couldn't they raise stock and make a living upon the land?

A. They could while the timber lasted.

Q. Would the land be worth anything after the timber was off?

A. I do not think it would for agricultural purposes; that is, if cultivating all wheat, oats; raising grain.

Q. What would it be worth?

A. Be worth for grazing?

Q. Grass would grow on it?

375 A. To a limited extent.

Q. What kind of grasses?

A. Timothys, clover, such as grows in that vicinity.

Q. Is this Southern 40 as heavily timbered as the balance of it?

A. I think they are.

Q. You have seen trees there of the size of 200 feet high?

A. Yes, and higher.

Q. How much in diameter?

A. As high as six feet.

Q. How many of these trees you estimate so was on that 160 acres of land of that size?

A. I did not count them to ascertain.

Q. How many trees six feet in diameter was on that 160 acres of land, judging from what you saw thereon, as far as you saw?

A. I can't make any estimate.

Q. Did you see 25 or 50?

A. I did not count them to ascertain; I presume I saw something near a hundred.

Redirect by Mr. STOTT:

Q. You speak about this devil's walking stick; isn't that what is called—commonly called elk brush; grows on high elevations?

A. Yes, sir; in some places.

Q. That is what is called elk brush?

A. Some folks call it that.

376 Q. Is there any market on that land for agricultural products?

A. Not that I know of.

Q. Just as good a market for logs as wheat or oats?

A. Yes, sir.

By Mr. WHITE. Q. Is it as difficult to get wheat and oats to market from where that land is as it is to get timber to market at the present time—appliances that they have there now for getting these things to market?

A. I don't think it would be.

By Mr. STOTT. Q. It would be no more difficult to take a sawmill in there and cut that lumber, no more than raising grain and getting it out?

A. I think not.

ROBERT A. HABERSHAM, called as a witness for the defendants, was duly sworn, and testified on direct examination as folllows:

By Mr. STOTT:

Q. Your age?
A. 49.
Q. Your occupation?
A. Civil engineer.
Q. By whom are you employed?
A. I am employed by the U. S. Engineer Corps.
Q. Where?
A. In Portland.
Q. How long have you been employed by the United States in that capacity.

377 A. About twelve years.

Q. Are you acquainted with the SE. ¼, sec. 12, T. 9 N., R. 1 W.?
A. Yes.
Q. When did you see it?
A. I was there in March last.
Q. In company with whom?
A. With Mr. White, Forsythe, Ackley, Cline, Vincent, Day, Carlson, Huntington.
Q. Now you are also a surveyor?
A. Yes.
Q. Did you run lines over the ground which you traveled on that tract?
A. Yes, sir.
Q. Whereabouts on the tract did you go onto it?
A. We commenced at the NW. quarter of that section, ran a line a mile east to find the stake which marked the northeast quarter of the section. I must look at my notes.
By Mr. WHITE. These notes made at the time?
A. Oh, yes; field book. We commenced SE. corner sec. 7, in that township, and ran 160 rods south to the half mile post on the section line, township line. I then ran 40 rods west, 120 rods south, and 80 rods west; from there we run west in the same direction 14½ rods west to the prairie, and thence 22 rods south to the cabin.
Q. I want to ask about that prairie; did you measure the prairie?

A. I did not measure the prairie.

378 Q. How large a prairie was it?

A. I find I noted it contained about (5) acres, by my estimate.

Q. You did not measure it?
A. I did not measure it.
Q. What was the character of the soil there at that prairie?
A. I didn't notice the soil on the prairie. It was covered mostly with fern grass and a little shrubbery, small, low.
Q. Where did you go from there?
A. Then we returned to the end of the 80-rod course, ran north 80 rods through the center of that 40; this on the prairie was an offset.

Q. What was the character of the land with reference to the surface, the lines on that place that you run?

A. The ground was very rough. I can give you the changes from point to point by barometrical heights I took.

Q. Give us the changes in elevation.

A. I found that in the first 20 rods it raised 50 feet; in the second, 20 feet level to the third; falls 10 to the 4th; raises 40 to the 5th, being 100 rods; 10 more to the next. It ran along at an elevation on the west line 80 rods, along at an elevation varying from 575 to 630 feet above the lake, and the elevation of the prairie was 640 feet above the lake, but we were running in the direction in which the line would naturally be level; running along the contour of the hill; the course slope was very steep, very precipitous on the line we run.

379 Q. What, if any, canyons or ravines did you notice?

A. Crossed quite a number of small canyons.

Q. What was the character of the timber?

A. The timber was large, straight, good.

Q. How abundant?

A. It was pretty well timbered, better in some parts than in others.

Q. How much would you say it would cost to clear that land so it could be plowed?

A. Never had any experience in clearing land; those large stumps can be gotten rid of for about, it depends upon what you use, from one to five dollars apiece, for bringing the land under cultivation, so it could be plowed easily; I can't say.

Q. Did you notice the soil at any other points except on the prairie?

A. I found the soil everywhere in the timber was a rich, dark loam, thin. The compass star, which was shod with steel, was scarcely made to penetrate more than five or six or 8 inches.

Q. What did it strike?

A. Solid rock; there seemed to be a thin crust of decomposed vegetable matter mixed with the soil, formed by disintegration of the soil itself?

Q. What, if any, rocks on the surface did you see?

A. I saw occasional boulders, rocks from a foot to two and three feet.

380 Cross-examination by Mr. WHITE:

Q. What did you say was your occupation?

A. Civil engineer.

Q. In March you saw this land?

A. March last.

Q. A civil engineer employed by the Government of the United States?

A. Not at that time.

Q. Are you now?

A. I am.

Q. You went there at the instance of Mr. Montgomery?

A. I went there at the request of Mr. Montgomery.

Q. To examine these lands in order to testify in this suit?

A. To survey the lands especially.

Q. So as to testify in this suit as to the character?

A. Yes.

Q. So when you stuck the Jacob staff in the ground it would strike rock?

A. Yes, sir.

Q. Always?

A. No.

Q. How frequently?

A. I suppose half the time.

Q. Do you mean to tell us here that that land there has a bed of rock lying all underneath this soil, all over the land?

A. I mean to tell you what I saw; they may have been boulders.

381 Q. Did you dig down to see what was underneath the soil?

A. No.

Q. To see that was simply scattered rock or bed rock?

A. No.

Q. What kind of rock was it?

A. Basaltic rock.

Q. No other kind there?

A. No other kind in the country.

Q. Aint that always broken up, as a rule?

A. No.

Q. That decomposed basaltic rock makes what kind of soil?

A. Makes good soil.

Q. The best in the country?

A. Makes good soil; I would not say the best, not equal to beaver-dam land.

Q. This rock was decomposed, wasn't it?

A. Grass on top, decayed vegetable mold, and part earth over this rock.

Q. Decomposed basalt rock?

A. Yes.

Q. You say there were quite a number of canyons; what you mean by canyons?

A. There are large canyons and small ones.

Q. You describe a canyon, the term you mean by canyon?

A. These deep gullies.

Q. Were they not more in the nature of ravines than gullies?

By the COURT. He says a deep gull*ie*.

382 A. The elevation I have given; I have shown that these were not large canyons, more properly ravines and gullies of different sizes.

Q. The approach to the bottom of that, was it abrupt or sloping?

A. It was up and down like the teeth of a saw.

Q. Up and down like the teeth of a saw?

A. Yes, sir.

Q. As abrupt?

A. Not so sharp.

Q. Then it was not up and down like the teeth of a saw?

A. It is like it.

Q. Not so abrupt?

A. In some cases more so.

A. About what was the usual angle from the bottom up to the top of the hill?

A. On the crest, the direction of the line?

Q. As you examined these things and saw them with your own eyes, and examined them as far as you can recollect, if you took notes of it, give us that?

A. The line on which they measured was up and down, generally level; we were crossing these little gullies, and the cross slope was very steep; in some places could hardly stand.

Q. You have given distances from the bottom to the top?

A. No, I have not.

Q. How far would it be, from the bottom of the gullies to *to* the top, until you came to the level?

383 A. Fifteen or twenty feet up and down, those were only gullies; mere ravines; the ravines, these would be fifty feet?

Q. Was there not ledges of rock exposed, abrupt breaks, so you could not possibly get down?

A. No; we managed to get down everywhere.

Q. You say this was about how far above the lake?

A. The prairie is about 640 feet above the lake, and the average along that 40 was from 575 to 630.

Q. How far was this land from the lake?

A. It is about, I think, a mile and a half; I can tell exactly by reference to township platts.

Q. Did the land slope toward the lake?

A. The land sloped north on this quarter.

Q. I mean from that point clear to the lake, how does the land slope?

A. It slopes down toward the lake.

Q. And from the lake you got up onto the top of this land; you have a rise of how many feet?

A. 640 feet.

Q. In how many miles?

A. About a mile and a half, the way the road went.

Q. There was a road that went to the ridge that went there.

A. A trail.

Q. Travel with wagons or horses?

A. Not as I know of; a foot-trail; they call anything a road out in the mountains.

Q. It is an unsettled section of the country.

384 A. Yes.

Q. Back from settlement?

A. Yes; not much settled around there.

Q. Had you any business connections with Mr. Montgomery, or have you?

A. I have had on two occasions within the last seven or eight years; I have been engineer in charge of work he has done.

Q. On railroads?

A. Once in railroad, once in furnishing timber for Government works on river improvements.

Q. Under large contracts, building Government works, and you was in his employ?

A. I was not in his employ; he was under my orders.

Q. In the railroads; how about that?

A. In the railroad I was called in as a neutral engineer on the narrow gauge railroad, in the Willamette Valley. The Scotch Company, the contractors, had taken work under contract, and when finished they decided a neutral man should be called in to accept or reject. I was called in by the company and Mr. Montgomery.

Q. And Mr. Montgomery paid for it?

A. Yes, sir.

Q. And he is a large contractor in that kind of contracts?

A. He has been.

Q. The elevations you have given here, Mr. Habersham, can't land be plowed over on those angles that you have already given?

385 A. The elevation has nothing to do with the plowing.

Q. On the angle of these ravines you have already given?

A. No, I should hate to undertake it; I never seen it done.

Q. How many acres could be plowed on this 160 as far as you observed it?

A. Very little; I can estimate how many. The soil was so rocky, apparently, level land could not be plowed.

Q. What line did you run down?

A. From 40, making 160.

Q. You did not dig into the soil?

A. With the compass staff.

Q. That is all?

A. That is all.

Q. You would been able to testify better if you had taken miniature grouping of the high timber all over—you could have given a better opinion?

A. Yes, sir; could have told all about it. I was employed to run lines; requested to examine the general nature of the soil, quantity and quality of the timber.

Q. Did anybody take the trouble to make that kind of an examination of the soil?

A. We carried no implements for that purpose—dug around with axes, sticks, and rolled rocks over.

Q. You saw upturned trees, didn't you?

A. Yes.

Q. What kind of soil on the upturned trees?

A. Full of rocks, roots, big rocks.

386 Q. Big rocks. All of the trees that way?

A. Generally; yes.

Redirect examination by Mr. STOTT:

Q. You say you were employed to make an estimate of the timber there; did you make an estimate of saw timber there?

A. I counted here and there what looked to me to be an acre of land 200 feet square, which averaged from 40 to 100 trees to the acre.

Q. How many thousand feet of saw lumber?

A. I have scaled separate acres of land elsewhere, and by comparison I should say from 100 to 250 thousand feet on that quarter section or portion I passed over. I do not know anything about what I did not see. It all seemed to be the same kind of timber.

Q. Did you say Mr. Montgomery paid you for this arbitration between the company and Mr. Montgomery?

A. William Reed paid me for it; all I know about it was the company and contractor were to *bare* half the expenses of the neutral engineer's services. William Reed was the agent of the company in Oregon.

By Judge DENNISON. I desire to save an exception to the ruling of the court, striking out paragraph (2) of the answer to the amended complaint.

(Counsel for the U. S. Government offers to allow the defendants to amend their pleadings so as to plead the matter here stricken out as a separate defense as required by the code of Washington Territory.)

387 By the COURT. Under the ruling of the court made in this case?

By Judge DENNISON. We accept the offer of the Government and take leave to amend to plead separately.

By Mr. WHITE. We offer certified copy of the map in evidence, the original of which was here this morning.

(Referred to in Mr. Austin's testimony.)

By Mr. STOTT. We renew the objection we made before to the introduction and make this objection to it. It don't appear that there was any authority to make an offer of this land, or that it was authorized or offered in parcels as the law provides.

FRANK L. WALBERG, called as a witness for the defense, was duly sworn and testified on direct examination as follows:

By Judge STOTT:

Q. How old are you?

A. 54 years.

Q. Where do you live?

A. At Silver Lake.

Q. How long have you lived there?

A. About 16 years.

Q. How far do you live from this Budd claim on section 12?

A. About—I think it is about 2 miles.

Q. On what section are you?

A. On section 10, and this is 12, section 11 between.

Q. Did you go upon this tract at any time?

A. I been going up there several times.

Q. Did you go up with Mr. Yocum and company?

388 A. Yes, sir; I did.

Q. Last March?

A. Last of May. Yes.

Q. Just state what you saw there.

A. We started from the center of sec. 12, and I have to refer to my notes.

Mr. WHITE. Did you make your notes at that time?

A. Yes, sir.

Mr. STOTT. Q. Right there on the ground?

A. I rewrote them.

By Mr. WHITE. I object.

The COURT. He can use anything to refresh his recollection; any witness can read a thing to refresh his recollection, but he must remember it as an independent fact.

Mr. STOTT. Q. How far from the land did you go?

A. I went over in the middle of each of them quarter sections, in middle of each 40 acres.

Q. Went over the same acres that Mr. Yocum did?

A. Yes, sir.

Q. What kind of land is it?

A. The first part is open about an acre, the other timber land.

Q. What kind of land is that open place?

A. I think that it could be cultivated and used for agricultural purposes, that open piece.

Q. What kind of soil is it?

A. Right there, I did not take any soil there; I took soil from the center of every 40 acres, and I got that soil right here, and they can judge
389 for themselves. Bring that soil. (Witness does so.) Here is the paper where I recorded where I took it from.

Q. Where did you take that?

A. This is in the center of the NE. ¼ of SE. ¼, sec. 12.

Q. Now, whereabouts did you get that soil, how far from the surface?

A. I scraped away the surface, so I, perhaps, about 2 inches below.

Q. Two inches from the surface?

A. Yes, sir.

Q. This was taken from the center of SE. ¼ of SE. quarter, sec. 12. This (3) *this* is better soil than the other (2). I take this from the center of the NW. ¼ of the NE. quarter, sec. 12. I take this from the center of the SW. ¼ of the SE. ¼, sec. 12. That rock was taken with it; I took them together.

Q. How did you pick it up, as it came?

A. This don't lay on the top; this I take up (2) inches below; this stands right there; the rock I took up too.

Q. What is the character of the timber on that track? I offer each one of the separate parcels in evidence.

By the COURT. Any objection?

Mr. WHITE. No objection. I reserve the right to rebut these samples with other samples taken from the same land. (Samples were all marked and filed in the case, property exhibited.)

Q. What is the character of the timber on that land?

390 A. It is merchantable timber. I consider will average, I guess, about 50 thousand feet of lumber when it is converted into it, on each acre.

Q. Have you had any experience in clearing and cultivating land in this neighborhood?

A. Yes, sir; I have.

Q. On your place?

A. Yes, sir.

Q. State if you ever saw that specimen (oats).

A. About 15 years ago I cleared this land what this was grown on. This is on high, dry land, where heavy timber is growing; I never cultivated that land before I cultivate it this spring. It is about half an acre. As I expected to be a witness here I thought I would let you see one bit of this oats, as proof how it grows out of the soil; and this is about what was growing on every foot of the ground on the half acre.

Q. Was an average foot?

A. One square foot.

Q. How did you cultivate that land?

A. I plowed it and harrowed it and set in and harrowed it over.

Q. Did you give it good, fair cultivation?

Mr. WHITE. State what he did.

A. I went over the ground with the plow once, and so I went with the harrow, and set it in, and went with the harrow again; that was all the cultivation I gave to it, and that was the last of March, and I cut
391 it latter part of July. This is from the regular timber soil, high land.

Q. Similar soil to this soil?

A. Yes, sir; seems to be the same.

Mr. STOTT. We offer these specimens in evidence. (No objection.)

Q. How much will it cost an acre to clear this Budd tract, SW. ¼, Sec. 12?

A. How much to clear it; the timber land?

Q. Yes, sir.

A. Five hundred dollars.

Q. How much to clear off the timber a day?

A. Two dollars.

Q. Do you know anyone out in that vicinity, on land like that, able to make a living on the land; if so, who?

A. No; I do not know anyone that can exactly live on the land but, perhaps, Rogers. They have been trying there all around to go out and make a living.

Cross-examination by Mr. WHITE:

Q. When was that country first settled down there?

A. It was settled five years before I came there; I didn't come in until 1870; the others have been there five years before.

Q. People coming there all the time since that?

A. Well, not up to the lake; they go down to Tootle River.

Q. This lake that is called Silver Lake is sometimes called Tootle Lake?

A. Yes, sir; that is the name, I think.

Q. The Government name is Tootle Lake?

A. Yes; it is.

Q. What kind of a season was last year?

392 A. It was a dry season; I mean this year.

Q. Yes; this year.

A. Yes, dry season; first crops I got on upland this year.

Q. At all, anywhere?

A. For lowland good season, for wet land so much better, for high dry land was not good season.

Q. Is this the only season you ever tried to cultivate upland?

A. No, I have—yes, this is the only season I cultivate; I have had grass growing and take a crop off; that is the only cultivation I have set it in.

Q. What kind of grass grows on this land in an ordinary season?

A. It does not grow any tame grass on it, nor any wild grass; it grows such grass as we set in.

Q. Such as you sow?

A. Timothy and clover.

Q. In ordinary season what kind of timothy and clover will grow on this land, upland?

A. Grow red and white clover, and ordinary timothy, what we can find.

Q. When the season is fair, reasonably fair season, how much will it grow of timothy to the acre; this upland where this grew?

A. I think about how I got it.

Q. I mean in an ordinary fair season, not in a dry season.

393 A. Yes; I got about one acre; such upland I did not see; I get more than a ton and a half, I think; perhaps only a ton. I can't say for certain how much it is.

Q. How does red clover do on that in an ordinary season?

A. It grows pretty good.

Q. In an ordinary season pretty good pasture land, ain't it, that grows red and white clover and timothy grasses?

A. Yes; I hav'n't had any for pasture; I use it for hay, but if I didn't take off hay it is good for pasture.

Q. You used it for hay—made your hay?

A. Yes.

Q. About how many ton to the acre?

A. I tell you about a ton or a ton and a half.

Q. That is pretty good crop, ain't it?

A. It is not, but I am satisfied with it.

Q. The bottom lands, river bottom lands, will produce how many tons to the acre?

A. Three or four tons to the acre.

Q. You say it costs five hundred dollars an acre to clear this land?

A. So it does.

Q. So as to put timothy hay on it?

A. No; you need not clear it, but take up stumps or take up logs just to make timothy grow; you can cut all your trees, leave that and burn it there, and can set timothy, and can grow without any five hundred dollars' clearing.

394 Q. To put it in timothy hay so cattle can get around over it without the necessity of putting big logs out of the way, leaving them lay on the ground, how much would it cost an acre, burn the limbs and leave the brush?

A. Ten or fifteen dollars an acre.

Q. To leave the stumps and logs lay on the ground?

A. And we can get timothy to grow, but it is no pasture for the cattle, because they can't get around over the logs.

Q. How much would it cost an acre after it was burned over to roll the logs together left on it and burn them up, or to burn them up by burning the big fir logs, and use just such available means as that to clear it of the logs?

A. It costs different, according to the amount of timber that is on it.

Q. I am talking about this kind of land we are talking about, on the average?

A. I will say sometime' it will cost up to three hundred dollars an acre.

Q. To roll the logs together and burn them?

A. Slash and take the logs to burn up the stumps.

Q. And roll the logs together and burn them?

A. Yes.

Q. Three hundred dollars?

A. Yes.

Q. How much a day do you estimate a man's work to be worth that would make it cost that per acre?

A. About two dollars.

Q. It would take one hundred and fifty dollars to clear up an
395 ordinary acre of that land by slashing it and burning it over, and burning the logs and brush on it without taking out the stumps. Now, do you say that?

A. It depends on how men clear off. If he has cattle to help him that is a different thing, but when a man comes there poor, has nothing but his muscles to help him, then it takes such a long time. A man's day labor is worth just as much then, when he has to work with his muscles and cut all in small pieces and work it up himself, as it is worth when he works with *with* cattle.

Q. Two or three men can work to a better advantage when clearing land than one, can't they?

A. Yes, sir.

Q. If a man has a yoke of cattle and two or three men he can work to still greater advantage?

A. Still cheaper.

Q. With three or four men and a couple of yoke of cattle how much would it cost an acre to roll the logs together, clear up the brush, and slash them down, and burn them on average acre of land?

A. Just that way I have not calculated, because I have no cattle myself to do it; I figure according to what I have done with my muscles.

Q. Don't you know it would not cost more than fifty dollars?

A. How do you know?

Q. I know all about it.

A. I have been working and I know.

Q. So do I know something about it. I ask you this question,
396 if you can't do it by contract and contract it out at fifty dollars an acre, that kind of land?

A. I can not.

Q. You never tried the contract way of doing it?

A. I have not, but I know I can't.

Q. How much would it be worth? I am speaking of these men and cattle and everything of that kind, so as to use these ordinary appliances that are handy.

A. As I told you before, I have no experience; I can't say how much it would cost; having cattle and men I can't answer the questions. I answer as a poor man, common man, without means; can't do it cheaper.

Q. You testified as to it costing five hundred dollars an acre. Your testimony is based on your own individual efforts, is it not?

A. Yes.

Q. How old are you?

A. 54—fifty-four years.

Q. What business did you occupy before you went on this farm?

A. First, when I was in the old country, I was a printer; when I came to this country I have been doing different kinds of work, sometimes on railroads and farms, sometimes in timber; been up in the snowy mountains working, working in mines, doing lots of different kinds of work.

Q. You took up land four years ago?

A. No, sir; I took up my land in 1870.

Q. How many acres have you cleared in that time?

397 A. I can't say that there is a whole acre cleared if there is any stumps left; so long as there is a stump left that acre is not cleared.

Q. Then when you say land would cost five hundred dollars an acre to clear it you mean to take all the stumps and roots out of it, everything of that kind that is on the ground?

A. Yes; so it is clear.

Q. You mean to take that out by the muscle labor?

A. Yes.

Q. Of one man?

A. Yes.

Q. Of such age as you?

A. No; a man that is in his best age; I have been stronger than I am now.

Q. Was you in your best age when you went on there?

A. Yes; I was 16 years younger than I am to-day.

Q. Have you made a living on your place?

A. No, sir; I have had to go out always and find work.

Q. You have made a home there?

A. Yes, sir.

Q. You have worked away from home a good deal?

A. Yes, sir.

Q. And still proved up on your claim?

A. Yes; I have done it.

Q. Still hold it?

A. Hold it yet.

Q. A good deal of timber on it?

398 A. About 100 acres good timber land.

Q. Good timber land?

A. Yes, sir.

Q. If you had a road in there, it would be valuable?

A. Yes; I will consider me well off if I get a chance to have the benefit of the timber on it.

Q. Very valuable, is it?

A. Yes, sir.

Q. Montgomery has promised to put a road in there and *and* get the timber out?

A. Not promised a road to me.

Q. Now, to the people generally, hasn't he talked that around?

A. I have heard it talked about; he proposed to put a railroad out there.

Q. If he could get this land all fixed up?

A. Well, he haven't told me anything about fixing up his land at all, or there should be a railroad over there.

E. R. HUNTINGTON, a witness for the defense, being duly sworn, testified as follows, on direct examination by Mr. Stott:

Q. Mr. Huntington, your full name?
A. E. R. Huntington.
Q. Where do you reside?
Q. Near Castle Rock?
A. Farming, yes.
Q. Your age?
A. 48.
399 Q. How long have you lived in that part of the country?
A. I have lived there since '76.
Q. What, if any, experience have you had in clearing and farming fir lands?
A. Well, I have some fir land and some other land; I have cleared some fir land; I never cleared any fir land before I went onto this place.
Q. How long have you lived in this part of the country?
A. Near 40 years.
Q. Are you acquainted with the S. E. ¼ sec. 12, that has been spoken of.
A. Yes, sir; been over it.
Q. When was that?
A. In March last.
Q. With Mr. Bingham and Company?
A. Yes, sir.
Q. You took the same route the others did?
A. Some of them was over it twice. I went there with the party in March.
Q. I mean this same route they took in March.
A. Yes, sir.
Q. What, if anything, did you notice about that soil; first, what was the character of the soil?
A. It was very rocky and gravelly generally.
Q. How do you mean rocky and gravelly; on top or immediately under this vegetable mold?
On a great portion of it rocks are visible on the surface without
400 removing any mold, when you remove the vegetable mold, you can see the gravel on most any of it.
Q. What is the effect of a fire sufficient to destroy the brush and the timber on that land, upon this vegetable mold, the top soil?
A. I should suppose it would be principally burned up, the vegetable mold, the trash, and stuff on top of the ground.
Q. What did you notice with reference to the surface of the land?
A. Well, in regard to the roughness?
Q. Yes.
A. It is considerably broken.
Q. Did you notice any canyons or ravines?
A. There was some ravines on it; I do not know they could be called canyons exactly.
Q. What was there; were they steep or gently sloping?

A. I can't say positively; I do not remember whether—I think one or two we crossed was pretty steep, perhaps some of them were sloping banks I do not remember distinctly about that.

Q. What was the character of the timber?

A. Fir and cedar mostly.

Q. Where was the cedar growing, whereabouts on the place?

A. Well, I think there was some cedar scattered over the most of it, if I remember rightly.

Q. Did you notice cedar with reference to streams?

A. Cedar was along the streams; more apt to be there than anywhere else.

401 Q. Near the water?

A. Near the streams.

Q. Did you notice any alder?

A. I do not remember I noticed to amount to anything; there may have been a little alder on the place.

Q. What was the character of this timber with reference to being suitable for saw logs to manufacture for lumber?

A. I call it pretty fair timber most of it.

Q. Did you notice the soil up in this prairie?

A. Well, I did, sir; I don't know that I dug into it on the prairie; I am not certain whether I did or not, I noticed it was some gravelly.

Q. What would you say the value of that land is for agricultural purposes?

A. The prairie or the whole tract?

Q. The whole tract.

A. I would not consider it of any value at all for agricultural purposes.

Q. How much would it cost an acre to fit it for pasture, cut down the brush; slash it, I believe they call it?

A. If you only cut down the brush it could be done for six or seven dollars an acre.

Q. What if any grass will grow in among the trees, without the trees being taken down, too?

A. Not very much.

Q. To take down the trees, slash the whole timber, what will it cost?

402 A. I do not think it could be slashed for less than twenty dollars an acre.

Q. Just cut down?

A. Yes.

Q. Then what would it be worth an acre in that condition?

A. Well, I would not consider it worth anything.

Q. Now what would it cost to clear it and fit for cultivation, plow it and take out the stumps?

A. Well, I should suppose from what I know of the clearing by the ordinary methods, it would cost somewhere about from $200 to $500 an acre.

Q. You mean using the cheapest method?

A. Using the ordinary methods of clearing I have observed.

Q. Then what would it be worth an acre in that condition, cleared up ready for the plow?

A. I should not think it would be worth anything.
Q. Did you notice any other farms in that vicinity?
A. I passed over some in that neighborhood.
Q. How long have you known this farm known as Carnines place?
A. I have known it ever since it was settled; but I was there before it was settled.
Q. What was the character of that land before it was settled?
A. It was called, what we used to call it, Stokes Prairie, a portion of it. It was, I suppose, land that had been burned over sometime, the timber killed and burned up, and grown up to small brush, and
403 brake and salalle, and such stuff as that; some grass on it and occasionally a standing tree, some standing timber.
Q. What, if anything, you know of these people in there being able to make a support for a family on any of these farms or ranches?
A. Well, I do not know of any settlers there but have worked out more or less ever since they have been there, unless it is Mr. Carnine, within the last year or two.
Q. Ain't it a fact he had to work out, he and his boys?
A. I think they have worked out more or less, most of the time since they have lived there.
Q. Now, what is the route from this land down to Silver Lake, as to being a practical way, make a route to take lumber out?
A. I didn't view it in regard to that, getting a road out, but I have no doubt there could be a practical logging road.
Q. What do you think about the practicability of manufacturing that lumber there and taking it to the railroad?
A. Well, I suppose it could be done.

Cross-ex:

Q. By Mr. WHITE. What is your residence you say?
A. I live near Castle Rock.
Q. How far from this land?
A. It is probably, in a straight line, 8 or 9 miles; I live in section (2.)
Q. What is your business?
A. Well, I am a farmer in a small way.
404 Q. What else?
A. I am notary public, a justice of the peace.
Q. You have been probate judge?
A. Not lately; not since I lived there.
Q. What county?
A. Cowlitz County.
Q. Did you take any proofs in this case?
A. No, sir.
Q. Do you have any business connection with J. B. Montgomery?
A. Never until this last spring.
Q. What was your business connection then?
A. I was engaged to look at these lands; I suppose it was for him; I was engaged by Mr. White.
Q. Mr. Geo. F. White engaged you?
A. Yes, sir.
Q. To look at these lands for Montgomery?
A. Yes, sir; I supposed so.

Q. What did White say when he engaged you?
A. I do not remember just what he did say.
Q. This is the same Geo. F. White who is in the court room, the man who engaged you?
A. Yes, sir.
Q. You say these lands are unfit for cultivation?
A. I did.
Q. Would they be unfit for cultivation if the timber and stumps were removed?
A. Yes, sir.
405 Q. Why?
A. It is too rocky and uneven to be susceptible of cultivation.
Q. How many acres could be plowed?
A. Well, under what circumstances?
Q. Under any circumstances?
A. I suppose 8 or 10 acres might be plowed, if cleared.
Q. You say all of it could be cleared on that land if cleared of stumps and trees?
A. I do not think more than that without removing rocks.
Q. Couldn't be plowed for rocks?
A. Yes, sir.
Q. Rocks were large and frequent?
A. Yes, sir.
Q. And was think all over the ground?
A. Yes, sir.
Q. How thick are they over that ground?
A. I do not know just how thick.
Q. You saw it?
A. Yes, sir.
Q. Were they every two or three feet?
A. Well, sir, I should judge they were thicker than that.
Q. It is almost one rock touching another, they are so thick?
A. On a great portion.
Q. On how many acres is it that rocky?
A. Three-fourths of it.
Q. Three-fourths where the rocks are so close that they touch
406 one another, scattered all over in that way?
A. Some rocks piled up one on the other.
Q. You are just as certain about the balance of your testimony as you are about that?
A. Yes, sir.
Q. The trees growing on there, what size?
A. Well, there is trees varying in size from one foot to four and five.
Q. How many trees from four to five feet to the acre?
A. I do not know.
Q. Three or four or five hundred?
A. No, not that many.
Q. Are there 40?
A. Some places 40 to the acre; not that large.
Q. What quantity of timber to the acre?
A. I do not know; I never made an estimate about the quantity of saw-timber.

Q. Ever log any?
A. No, sir.
Q. How many acres do you cultivate now?
A. Well, I have about twelve or fifteen acres.
Q. Bottom land?
A. River bottom.
Q. You have not tried to cultivate the hill land?
A. No.
Q. You never tried to cultivate any such soil as this?
A. No, sir.
Q. Don't you think it possible to cultivate it?
A. I would not try it.
407 Q. Is the timber heavy and hard to get at—to get a road to?
A. Yes; tolerably heavy timber.
Q. Is it hard to get a road to?
A. Yes, sir.
Q. If a sawmill was put in there it would be very valuable timber?
A. If there was a market for the timber there it would be valuable, I suppose.

By Mr. WHITE. I desire to make one request, I want to amend my complaint, my complaint in one particular; under the code I desire to insert these words in paragraph 3 of this complaint, that said (reading the complaint, inserting the following words:) "had been offered and."

By the COURT. "Offered and," two words; I can't see that that makes any particular difference.

By Judge DENNISON. It makes all the difference in the world; a vital difference.

By the COURT. They can have it on terms.

By Mr. WHITE. I just learned of it this morning.

By Judge DENNISON. It was in your first answer, and stricken out in the second.

By the COURT. If you say it is a vital question I must still conform to the statute.

By Judge DENNISON. It will render it necessary to reform the whole answer, though.

By Judge STOTT. We supposed that they had abandoned that proposition as they left it out in the amended complaint; it was inserted
408 in the first complaint and left out in the amended.

Mr. WHITE. It was left out by accident.

Mr. STOTT. It opens up a proposition not involved in the testimony; we have not been preparing at all.

Mr. WHITE. This question presented under such an amendment as that is presented in the complaint any way, as I claim by the evidence that that patent is absolutely void.

By Judge DENNISON. It ends the whole case, with this exception: before the court will set aside that patent it will require that the United States refund that money. It cuts off all their equities; if their officers have issued patents for land of this kind under this act, offered land and taken money from settlers for that, from the representations of its officers, subject to this act, and now come and ask that this court set that patent aside and take that title away, it must refund the money, in equity and good conscience.

Mr. WHITE. The court will not cancel the patent until the money is refunded.

By the COURT. The only question is, if you are taken by surprise, not prepared to meet the case, but ask a continuance to prepare yourself to meet this question, which is a surprise to you, the court will grant that and impose the terms; that is the only power I have, as I can't refuse this amendment.

By Judge DENNISON. With the lief to reform the pleadings, in the meantime, as we are taken by surprise?

409 By the COURT. What do you want?

By Judge DENNISON. We want this case continued that the evidence be preserved that is taken until we are ready for trial.

EDWARD ROTHSAYE, a witness for the defense, being duly sworn, testified as follow on direct examination:

By Judge SCOTT:

Q. What is your age?

A. 40 years.

Q. Whereabouts do you live?

A. Silver City.

Q. How long have you lived there?

A. Nearly five years.

Q. What is your occupation?

A. At present a farmer.

Q. How far do you live from the SE. ¼ of section 12?

A. I have never examined that land; I could not tell you that. I am about a mile and a quarter in a direct line north of the lake.

Q. On what section?

A. Twenty-two.

Q. What township?

A. Ten N., R. 1 west.

Q. Now, have you had any experience in farming?

A. Since I have been there I have.

Q. On hill lands?

A. Hill lands.

Q. Covered with fir and cedar?

410 A. Fir and cedar; such trees as grow on hillside.

Q. What do you say about that land as being valuable for agriculture?

A. Of no value; I have been there for 5 years and have not raised enough to sustain my family.

Q. What do you have to do?

A. Go out and work at anything I can get to do.

Q. What about the fact of every settler there, instead of making a living on their farms, go out to work in logging camps, shingle-bolt factories, and so on?

A. Every one has to go out; not one can make their living.

Q. What sort of crops do you raise on your place?

A. Very inferior indeed, if anything at all.

Q. What kind?

A. I plant potatoes and such garden stuff as is generally sold; I got about a half an acre in potatoes, had it plowed three times, sowed six bushels and a half potatoes on one half acre, and got a return on it which I thought was very favorable for me—was about nine and a quarter bushels.

Q. When was that?

A. This year.

Q. What has been your experience other years?

A. Never been able to raise enough. This has been the most plentiful harvest I ever had.

Q. What success did you have with other vegetables?

A. I had onions about the size of a straw, and turnips about
411 the size of my thumb.

Q. What does it take to clear ordinary timber land?

A. I have been trying to do it now ever since I been in the country by my own manual labor, and not been able to clear an acre in four years. If I count my time at the rate wages are, two dollars a day, wages going in that country, it would be a very large sum.

Q. How much time would it take a man with good physical strength, with ordinary appliances, to clear an acre?

A. With his own hands?

Q. Take a team; the best at that?

A. Can't buy a team, every poor man. If I had a team I might do it in much shorter time.

Q. How long would it take with a team?

A. Cut down the trees, roots, stumps; take everything away?

Q. Get it ready for the plow?

A. It might take half a year.

Q. What is the ordinary wages in that country?

A. Two dollars a day.

Q. With board or without?

A. Without board.

Cross-examination by Mr. WHITE:

Q. Your name?

A. Edward Rothsaye.

Q. Where were you born?

A. Born in England.

Q. How old are you?

412 A. Forty.

Q. In what part of England were you born?

A. City of London.

Q. And what did you do in the city of London?

A. Was a teacher.

Q. Did you ever farm before you came to this country?

A. I did not.

Q. Where was your first experience?

A. Silver Lake.

Q. How old?

A. Forty years.

Q. You began how many years ago to be a farmer?

A. Since I been in Silver Lake.

Q. That is your first experience in farming?

A. First experience.
Q. Then you wouldn't call yourself a practical farmer?
A. I did not.
Q. You found difficulty in clearing the lands?
A Yes, sir.
Q. You was single-handed yourself?
A. Yes, sir.
Q. Have a family?
A. Yes.
Q. To clear these heavy timber lands requires a good deal of log-rolling, don't it?
A. I guess it does.
Q. And to handle big fir logs one man can't do it?
A. No.
413 Q. The ordinary trees that grow here on such land are pretty big, and one man can't handle them?
A. No one man can't do it.
Q. You can burn up a great deal of this fir timber by boring it?
A. You can.
Q. Couldn't they be burnt by boring four holes in the tree—one in each side of the tree—and then putting a few coals of fire in them and blowing them up, saving the balance of the tree, so as you can get four five logs that would be easily handled?
A. Down timber gets wet.
Q. Don't you know that down timber—even some rotten timber—will burn up?
A. Some down timber will burn and wet timber will not.
Q. But this green timber. You take one of these green firs sixty feet up to the first limb; if you bore it the way I said and set it afire, can't you burn all up so the remainder could be sawed into blocks four or five feet long?
A. I don't know about burning of it in separate parts.
Q. Then you can get at it single-handed?
A. Yes, sir.
Q. That is the way men, single-handed, ordinarily clear up this fir-timber land?
A. I suppose so.
414 Q. Suppose a man should have cattle and three or four men to handle logs by the modern appliances for handling logs, how much would it cost an acre to clear up that land?
A. I couldn't very well estimate that. I never had very much to do with cattle. As for employing men, I can't do it; I can't pay them.
Q. You never worked in logging camps?
A. I am working in a logging camp at present time.
Q. Where at?
A. Tootle River.
Q. That the first time?
A. Yes, sir.
Q. When did you commence?
A. This summer.
Q. That is your first experience or knowledge in logging?

A. Yes, sir.
Q. And being a tailor in London——
A. I was not a tailor in London.
Q. O! What was it?
A. Teacher.
Q. Being a teacher and working a little on the Tootle River in saw-logs, you wouldn't undertake to say what quantity of saw timber was on one acre of this land?
A. I would not undertake to say.
Q. You would not?
A. I may after having been in the business four or five years.
Q. Have you examined this land?
A. I have not examined the land.
415 Q. You have not examined this land?
A. Which land?
Q. This land in controversy.
A. No, sir.
Q. You don't know what kind of soil it is?
A. I do not.
Q. You have been speaking about soil?
A. I have been answering your questions you have been asking me about soil and rolling trees.
Q. I am asking you about the soil on this land, that is what you have been testifying to.
A. Yes, sir.
Q. You don't know how that soil on your land will compare with the soil on this land?
A. Not of my own personal knowledge.
By Mr. WHITE. I move to strike out.
By the COURT. Let it remain, subject to the cross-examination of the statements he has made.

GEORGE G. ACKLEY, a witness for the defense, being duly sworn, testified as follows on direct examination:

By Mr. STOTT:
Q. Where do you live?
A. Silver Lake.
Q. How old are you?
A. 44.
Q. What is your occupation?
416 A. Farmer, at present time.
Q. Whereabouts at Silver Lake do you live; on what section?
A. Yes, sir; section 28, T. 10 N., R. 1 west.
Q. How far from this Budd tract?
A. Between 4 and 5 miles.
Q. Did you ever examine that land?
A. Yes, sir.
Q. When?
A. Somewhere in the last——; first time 21st, of March; last time, 18th of May, '87.
Q. Went on with Bingham and Mr. Yocum?

A. Yes, sir.

Q. Followed over the same course they did?

A. Yes.

Q. What you say about the soil over this course, the places where you saw it?

A. Very rocky and gravelly; we took notes every 20 rods; the first two notes we took showed soil to be very gravelly and all the balance showed soil to be too rocky.

Q. Did you notice the character of the soil at that prairie opening?

A. I did.

Q. What was the character of the soil there?

A. It was similar to other hill land in that vicinity.

Q. What was it?

A. I consider it very poor.

Q. Did you notice any dark clay mold?

417 A. I did not.

Q. Now, what is the character of that tract with reference to being broken or uneven?

A. On our first run east, at a point of 100 yards there was a fall of 125 feet into a canyon, and at the next 20 rods a rise 80. Then running south, we were going south along each canyon, and made a rise of 105 feet. That was a gradual ascent up and down, the general rise 105.

Q. The meanders given up and down?

A. Up and down, along the edge of the canyon.

Q. How much, if any, of that land was so broken and uneven as not to be conveniently plowed?

A. I do not think any of it could be profitably plowed, except a small portion on the west.

Q. How much would it cost an acre to clear that land, take out the roots and stumps, using the cheapest appliances?

A. Outside the open land on the west?

Q. Yes.

A. From one to two hundred dollars.

Q. Would that include taking out the roots?

A. Yes.

Q. How much would be the value of that land there?

A. For what?

Q. For agricultural purposes.

A. I should consider it valuless.

Q. What is it worth in its present condition for timber?

A. It is a valuable piece of timber.

Q. What is worth for agricultural purposes in its present condition?

418 A. I should consider it worthless.

Q. Did you notice any cedar timber?

A. Yes.

Q. Where did that occur, with reference to streams?

A. There is some cedar timber; most of the cedar timber is in the canyons. There is occasionally cedar all over it, except on the immediate west edge.

Q. Now, do you know anything about the surface of the country from there down to Silver Lake, Tootle Lake?

A. There is a great deal of de'cent from there to the lake.

Q. What is the practical route out to the railroad or Cowlitz River navigation?

A. There is a practical outlet for running logs into Silver Lake, used as a reservoir, and from Tootle Lake there out to the river, and from there to market.

Q. They are logging there on the Tootle?

A. Not to my personal knowledge; I heard they were.

Q. How deep is this lake?

A. Well, I never took any measurement of the lake.

Q. I mean about how deep?

A. It is deep enough for all practical purposes, for putting a boat on and drawing logs.

Q. What is the fact about it being navigable around there for boats?

A. You can always get on it with boats.

Q. What is the outlet of that stream into the Tootle River?

A. What is the outlet?

419 Q. Yes.

A. The outlet is a stream that is wide enough to run logs.

Q. There is a stream there now?

A. Yes, sir.

Q. What sort of a stream is this Tootle River?

A. Tootle River is very favorable to run logs. I have seen logs run on much smaller rivers than Tootle, and much smaller streams than Tootle.

Q. The Tootle passes into the Cowlitz?

A. Yes, sir.

Q. Whereabouts from Silver Lake Station?

A. My impression is, in the neighborhood of a mile or two. I could not say positively.

Q. Do you think there would be any difficulty in floating logs in Silver Lake down to the Cowlitz?

A. From Silver Lake?

Q. Yes.

A. I have been accustomed for the last twenty years to see logs run down the stream.

Cross-examination by Mr. WHITE:

Q. How much would it cost to clear out the streams there so you could float logs down to the Cowlitz?

A. I never made an estimate.

Q. Would it cost a large sum of money?

A. Not a large sum of money in comparison with the amount of timber that can be run down it.

Q. I don't care whether one log or a thousand. It would cost

420 as much to run one log as more logs.

A. I presume it would.

Q. How much it cost to clear out run logs down to get to market?

A. I never made an estimate.

Q. How many miles of clearing?

A. I do not know.

Q. You do not know the length of the river?

A. Not exactly. I have never measured it.

Q. How many miles do you think? Give your best judgment. You are an honest witness and want to tell the truth. Just try and give me your opinion.

A. I think seven or eight miles.

Q. What kind of stuff is there in that stream that renders it so logs would not float out?

A. I do not think much of anything, except rocks in a few places.

Q. You would have to deepen the channel?

A. No.

Q. How, then?

A. Blast out a few rocks.

Q. Wouldn't that deepen the channel?

A. Would clear out the obstructions.

Q. If all the obstructions were all cleared out of that river that runs from the lake?

A. No river don't run from the lake.

Q. How would you get the logs out of the lake?

A. By the outlet.

421 Q. How far from that outlet to the river?

A. Two miles—a mile or two.

Q. You would have to clear the outlet out too?

A. A little more or less every year; clear such streams when running logs through.

Q. How much would it cost to clear the outlet out to the river so as to get logs down onto the river? Or would you take them by that route?

A. Take them anywhere you wanted to.

Q. What particular river?

A. Take them into the Cowlitz River, then into the Columbia.

Q. You can't say how far it is from the Tootle River outlet to this Silver Lake?

A. Not over seven or eight miles; not as far as that, perhaps.

Q. Has there been any talk about clearing the channel out?

A. Never heard of any.

Q. Never heard Montgomery talk about it?

A. No, sir.

Q. That is the only way to get logs out at present, ain't it?

A. Do as you do in any other country—build railroads.

Q. Are these logs worth anything in the present condition of the country?

A. They would be if I owned it.

Q. You would hold them for speculation?

A. That would be about it.

Q. Until someone built a railroad, then it would be valuable as timber?

A. Yes, sir; certainly.

422 Q. Now, how much value has that timber; to take this timber on that land at the present time to take it to market, would it pay to do it?

A. Not to the man who owned a quarter section.

Q. With the appliances now for getting out timber, could it be done unless you got a sawmill in there?

A. If you had money enough.

Q. If you had a sawmill in there to haul it too?

A. I never run a sawmill.

Q. You give your judgment?

A. Reasonably good.

Q. You wouldn't say that would pay?

A. What would pay?

Q. To put a sawmill on that quarter section of land, and cut all that timber now and haul it with wagons. Would that pay?

A. I don't think it would.

Q. Have you ever examined the soil on this land?

A. Yes, sir.

Q. How many times?

A. I examined it on every 20 rods on the course we ran.

Q. You was there with that company?

A. I was.

Q. What was your business before you went there at that time?

A. I was trying to make a home on a homestead.

Q. How long have you been on your homestead?

423 A. I commenced working on it a year ago the last days of last March.

Q. Took up similar land as this?

A. I don't think, if similar I wouldn't took it.

Q. Is it better?

A. I consider it so.

Q. Also high land?

A. Lower land.

Q. On the lake?

A. No, sir; lies between the lake and Tootle River.

Q. Back off the river, or on the river?

A. Mile and a quarter.

Q. Most of it on the hill land, or timber land?

A. Most of it is swale land.

Q. Describe what you mean by swale land?

A. I mean low, wet land on which hardwood timber grows; principally cedar.

Q. Some big firs on your land?

A. Portion of it got large firs.

Q. How big are the firs, biggest firs?

A. Ten feet in diameter.

Q. What is the biggest cedar?

A. 12 feet in diameter.

Q. That would cost about how much an acre? Is it more difficult to take cedar stumps than fir?

A. I never undertook to take one out.

424 Q. It would cost a good deal to take out cedar stumps of a tree 12 feet in diameter?

A. I judge it would.

Q. Where these big cedars grow it is considered very good land?

A. I saw some not as large trees; I saw some very fine cedar. I saw growing up on the Tootle River, clear up on the mountain, a thousand feet above the river, stuff so thick and rank you couldn't see the ground; very fine fir.

Q. Up in the high regions?

A. Up in the high regions.

Q. More rainfall there than we have on the lower level?

A. Yes, sir.

Q. Take that land where you get those 12-feet cedar stumps, how much would it cost to take those fir and cedar stumps off that land?

A. I have got an acre near where my house stands, and it would take a man working a year hard to grub entirely before he git them all out.

Q. Would it cost five hundred dollars, and yet you are making a home of it?

A. Yes, sir.

Q. You have not abandoned it?

A. No, sir.

Q. You filed on it as a homestead?

A. Yes, sir.

425 NICHOLAS CLINE, a witness for the defense, being duly sworn, testified as follows on direct examination:

By Mr. STOTT:

Q. Whereabouts do you live?

A. Between Silver Lake and Tootle River.

Q. How old are you?

A. 37.

Q. How long have you lived there?

A. Going on 5 years.

Q. Do you know this Budd tract of land?

A. Yes, sir.

Q. Was you on that with Mr. Bingham and Ackley?

A. Yes; I was.

Q. You went over the same route they did?

A. Yes, sir.

Q. What did you notice about the soil?

A. The soil is very rocky.

Q. What did you notice about any gravel?

A. Gravel on it, too.

Q. Now, how is it with reference to being level, smooth surface, or gently rolling?

A. Very rolling.

Q. How about being broken?

A. Broken, too.

Q. How much prairie is there, what you noticed?

A. I estimated between 5 and 6 acres; I didn't measure it.

Q. Have you cleared any timber land in that country?

426 A. Yes; I did.

Q. How much would it cost an acre to clear this land?

A. Which land?

Q. This Budd land; I mean the timber portion of it, except this little opening?

A. Take it out?

Q. Make it clean so you can plow it?

A. I should think it would cost about three hundred dollars.

Q. How much would it be worth an acre after it was cleared for farming purposes?

A. I do not think it would be worth very much.

Q. How much?

A. It would not be worth anything to me.

Q. How much wheat will such land grow to the acre?

A. I aint got no idea about that, what it would bring.

Q. What is the possibility or practicability of building a road from this piece of land down to Silver Lake?

A. I should think there could be got a road down that way to the outlet.

Mr. WHITE. We will admit that.

By the COURT. What kind of a road?

Mr. WHITE. Any kind of a practical road.

Mr. STOTT. Q. What do you know about this Tootle River being a stream large enough to float sawlogs?

A. Yes; when the water raises

Q. How many thousand feet of saw timber to the acre on this
427 land on an average?

A. I didn't make any estimation about that.

Q. What, if any, value is that land in its present condition, for a farm or for agricultural purposes?

A. I do not think it has got any.

Cross-examination by Mr. WHITE:

Q. Your name is Nicholis Cline?

A. Yes, sir.

Q. How frequently have you been on the land; this quarter section?

A. You mean the course I run on it.

Q. How many times you been on it?

A. I examined that land once, but I have passed over it several times.

Q. When was it you examined the first time?

A. That was in March 21st, 1887.

Q. Did you never examine it before that time?

A. No, sir.

Q. Ever examine any in that section after that time?

A. No, sir.

Q. Or township?

A. In the township, I did.

Q. Who with?

A. With Mr. Geo. F. White and Robert Rockwell.

Q. Robert Rockwell?

A. Yes, sir.

Q. Who paid you for that examination?

A. Mr. White.

428 (Defendants object, as immaterial.)

Q. Who was Mr. White examining land for there?

(Defendants object.)

Q. Who paid you for it?
A. Mr. White.
Q. Who was Mr. White looking up land for, do you know?
(Defendants object.)
A. I can't tell.
Q. Very rocky?
A. Yes, sir.
Q. And gravelly?
A. And gravelly, too.
Q. Rocks and gravel in some places, where there was not rocks there was gravel.
A. Yes, sir.
Q. That is the way it was; how many acres was gravel and how many acres rock?
A. That I could not say.
Q. How close were the rocks to each other?
A. Pretty thick.
Q. Covering the surface of the ground all over?
A. Not all over; some places on top.
Q. How many acres could be plowed if the trees and stumps were all taken out of it?
A. Well, I do not think you could plow very much.
Q. How many acres?
A. I could not tell.
429 Q. You have cleared up land, you say? You estimate this land will cost three hundred dollars to clear it?
A. I do not say that.
Q. How much to clear up this Budd land we are talking about? How much it will cost to clear up an acre and make it fit for farming purposes?
A. I say three hundred dollars.
Q. Upon what do you base your estimate?
A. On the clearing.
Q. On what you have cleared yourself elsewhere—on other lands elsewhere? That's what you form your estimate on, to make a basis to judge from?
A. Yes, sir.
Q. Have you ever cleared up any land as heavy as this land?
A. No, sir.
Q. Your land ain't so heavy?
A. No, sir.
Q. Similar kind of timber?
A. Timber is not so heavy.
Q. Similar kind of soil?
A. Soil is better.
Q. Bottom or hill land?
A. Bottom.
Q. What kind of timber grows on it?
A. Fir, soft maple, and alder.
Q. What proportion of fir?
A. Yellow fir.
430 How much would it cost to clear your land by the acre?

A. Only cost about—to make clean, fit for clearing—cost about fifty dollars.

Q. To take all the stumps out, and everything of that kind—how much would it cost an acre to clear your land?

A. I should think it would cost about double.

Q. About one hundred dollars an acre?

A. Yes, sir.

Q. Yours a homestead claim?

A. Yes, sir.

Q. And you are clearing it for a home?

A. Yes, sir.

Q. And have not abandoned it?

A. No, sir.

Q. And you don't think of abandoning it?

A. Not yet.

J. N. CARLSON, a witness for the defense, being duly sworn testified as follows on direct examination:

By Mr. STOTT:

Q. How old are you?

A. 40.

Q. Whereabouts do you live?

A. Cowlitz County.

Q. What is your occupation?

A. At present, a farmer.

Q. How far do you live from Silver Lake?

A. I am by Silver Lake.

Q. Right by the lake?

431 A. Yes, sir.

Q. How far do you live from this Budd land?

A. About three miles or more, perhaps.

Q. How long you lived out there?

A. Eleven years; in January it will be eleven years.

Q. Do you know this Budd tract of land?

A. I do.

Q. You were over it with Yocum and Company?

A. Yes, sir.

Q. At the time those pictures were taken in May?

A. No, sir; I was with them after, one time when they took a picture and the picture got damaged.

Q. What kind of land is that?

A. Well, it is a good deal rocky land; some portion of it is better land.

Q. How much of it is rocky?

A. I didn't give any estimation of it; never.

Q. How are the rocks situated?

A. Well, a good deal as cropping right out, and some is a little on top.

Q. Is there vegetable mold on top?

A. On some of it there is.

Q. Did you dig down through that to see whether there was rock?

A. I did not dig down; I saw some on the trees torn up by the roots.

Q. How many trees to the acre?

A. That, I think, is about thirty or thirty-five trees, and so on.

Q. What would you say it would cost an acre to clear up that land and fit it for the plow?

A. Remove the stumps and all?

Q. Yes; make it smoothe, like farming land.

A. I don't know; I never done any such work and don't know.

Q. You ever clear any land?

A. I have not removed such big stumps as that has.

Q. Clear it up and leave the stumps in, what would it be worth; how long would it take a man to clear an acre?

A. That is just as hard to answer as to give full estimate; I think it would cost probably one hundred dollars, to the best of my knowledge.

Q. How much that land worth, in present condition, for farming?

A. With the trees standing on it?

Q. Take it just as it is for farming?

A. You can't farm amongst the trees.

Q. Take it as it is, do what you please, how much is it worth as a farm?

A. I do not understand.

Q. I ask what is it worth to-day?

A. I don't want it.

Cross-examination by Mr. WHITE:

Q. You have got a better place, hav'n't you?

A. Well, not much better.

Q. You live there; how long have you lived there on that place?

A. Eleven years.

Q. Living there yet?

A. Yes, sir.

PETER S. MOORE, called as a witness for the defendants, was duly sworn, and on direct examination testified as follows:

By Mr. STOTT:

Q. How old are you, Mr. Moore?

A. 47 years old.

Q. Whereabouts do you live?

A. I live—got a place up in Silver Lake.

Q. How long you lived there?

A. Off and on ever since 1871, I think.

Q. What is your occupation?

A. General logging.

Q. What, if anything, do you know about the farmers up in that community being able to make a living off their farms to support a family?

A. I do not think any of them has done it.

Q. How have they supported their families?

A. Working out, generally.

Q. Where have they worked?

A. In logging camp, shingle bolts for farmers around through the country.

Q. You do not know this particular tract of land?

A. No, sir; I do not know it at all.

Q. Have you ever cleared any timber lands in that country?

A. Silver Lake country?

434 Q. Yes.

A. No, sir.

Q. Do you know what it is worth to clear that ordinary timber land?

A. I do not.

Q. Do you know whether it is expensive or otherwise?

A. Yes, sir.

Q. Do you know whether it exceeds the value of the land?

Mr. WHITE. I object to those leading questions.

By the COURT. State what it costs. He don't seem to know, so far, what the value of the land is.

Mr. STOTT. Q. What is the value of that or any timber land out there for farming purposes?

Mr. WHITE. I object of this particular land.

By the COURT. Of this land or similar land.

Mr. STOTT. Q. I will ask you about hill lands covered with fir and cedar timber in that vicinity of Silver Lake?

A. As far as I know I wouldn't want to clear any of it for less than from 50 to 200 dollars an acre.

Q. How much is that kind of land worth after it is cleared?

A. Perhaps it might be sold for from 10 to 15 dollars an acre.

Q. That you mean where it lays even enough for the plow; free of rocks. Suppose it is uneven, and broken, and covered with rocks and gravel, then what would it be worth?

A. It ain't worth anything.

Cross-examination by Mr. WHITE:

435 Q. You never was on this piece of land?

A. No, sir.

Q. You say farmers out there about Silver Lake have not been able to make a living on their places?

A. They do not make a living on their places.

Q. It is pretty hard for a poor man in this country the first few years to make a living, is it not?

A. Yes, sir.

Q. Until he gets his land cleared up on any of that kind of land?

A. Yes.

Q. A man with no means, depending on nothing but manual labor for support, how is that?

A. Of course it is pretty hard for a man to stay on there.

Q. You can't go on a piece of land in western Washington anywhere and clear it up and make a living as upon portions of land in Illinois, Indiana, or Iowa, could you?

A. I could not tell you; I came from there when I was young.

Q. Did you know about how much an acre it cost to break up land in this country or in eastern Washington, here for instance?

A. I suppose prairie land—of course, they could probably plow it up pretty reasonably.

Q. After the land is cleared up, cleared of the stumps and the trees on it, say 40 or 50 acres of such land as you are living on down there,

could a man make a support for a family on such a piece of land as that?

436 A. Yes; if he had the water off of it.

Q. You have got bottom land?

A. Yes; it overflowed.

Q. You hav'n't got hill land?

A. No, sir.

Q. You didn't take up hill land; never tried to cultivate hill land?

A. No.

Q. You can't say what crops you could raise?

A. On hill land?

Q. Yes.

A. I don't see any extra crops around Silver Lake.

Q. Most of the land around Silver Lake is farming land, and around the borders of the lake, is it not?

A. Not right on the lake.

Q. Along the outlet of the lake?

A. Some right around the borders of the lake, not what you call swamp land; it is on the hill.

Q. You say it would cost 50 to 200 dollars an acre to clear off the timber there too?

A. Yes, sir.

Q. What do you mean by $200? What kind of clearing would you make of an acre of it?

A. You would have to get all the timber down, big fir trees in general, chop them down and burn off, to make any crop.

Q. Would you plow around the stumps, take out the smaller ones and leave the larger ones, that could be done for $200?

437 A. Some acres and some less. I do not think you could do it any less on an average.

Q. Couldn't you slash land such as that is for about $15 an acre or $18 an acre?

A. Where?

Q. Such as the upland bordering around the Silver Lake land?

A. $15 an acre? No, sir.

Q. Do they cut down big fir trees when clearing land? How do they generally get them down?

A. Generally saw them down.

Q. Don't they generally burn them down?

A. Ranchers, they may; yes.

Q. How do they undertake to burn these trees down?

A. Bore in with an augur, set fire to them and burn them down and then have to go to work with the same process and burn them up.

Q. Don't burn them up until you have cut them into parts?

A. They burn up the whole part of them if you are going to clear the land.

Q. To burn these trees down in that way, big fir trees, and cut down the smaller ones, and burn them up in that way, and get the land cleared of the timber on it, how much would it cost an acre?

A. I don't think that could be done for any less than from fifteen to two hundred dollars.

H. V. HUNTINGTON, a witness for the defense, being duly
438 sworn testified as follows under direct examination:

By Mr. STOTT:

Q. What is your age?

A. 37 years old.

Q. Where do you live?

A. Live in Cowlitz County, near Castle Rock, Washington Ter'y.

Q. How long you lived there?

A. Since '52.

Q. Do you know this Silver Lake country?

A. Know more than that.

Q. Do you know the common hill lands there?

A. Yes, sir; pretty well.

Q. Are they covered with fir?

A. Yes, sir.

Q. I will ask if you have had any experience in clearing timber land?

A. I have had a good deal.

Q. What would it cost an acre to clear that ordinary hill land, covered with fir and cedar, and fit it for the plow?

A. There is a vast difference in the ordinary hill land the way I would estimate it, the bigger the growth the harder.

Q. Large trees go 30 or 40 to the acre?

A. Much of those large trees were burned down. I don't think they could be got rid of for from less than two and three dollars apiece; that is my experience. I have cleared some such hill land.

Q. Couldn't you bore them and pile them up and get rid of them by burning for less that two dollars?

439 A. Take trees two and three feet up I do not think you could.

Q. Now, what would it cost to take out the stumps, roots, and underbrush?

A. Blasting is the cheapest method we have; I have had some little experience myself; saw it done; the estimate to blow out one of those stumps, two and a half, from four bits to a dollar, to blow out clear. Then you got to get rid of it; it varies a good deal; some burn up with little trouble, and some a good deal of trouble to get rid of.

Q. Then, what you say it would cost an acre to get rid of an acre that had from 20 to 40 trees to the acre, covered with ordinary growth of underbrush, the cheapest mode?

A. You mean clear it up?

Q. Clear up and grub it and fit it for the plow?

A. I do not think it could be done for less than $50 an acre and grub the big stumps out. To grub them out so it could be plowed by the common method; leave the stumps in could be done for a good deal less.

Q. What is such land worth an acre when cleared?

A. That is a hard question to answer; very little of it in fact sold; generally sell a large quantity of unimproved land; our best bottom land on the river is worth a hundred dollars.

Q. Along the river and railroad?

A. Yes, sir; that is what we estimate land worth on the river.

Q. You don't know what hill land six or seven hundred feet above Silver Lake is worth?

440 A. No, I don't.

Q. Did you ever see this particular tract?

A. I have been over it two or three different times; never examined the numbers. We always knew it as the Daughty Prairie. I was the first man ever there, but I did not examine it very minutely; been over it two or three different times.

Q. Never examined it with reference to soil?

A. No, sir.

Q. You don't know where it lies here?

A. No, sir.

Q. Do you know anything about how farmers at Silver Lake sustain themselves, whether on their lands or working in logging camps and shingle-bolt factories?

A. As a general thing when you first go there you have to work out more or less, owing to how much money a man has when he goes there.

Q. Who has been able to make a living after staying there several years?

A. Hard to say, one or two, Mr. Carnine, Mr. Boothe, are about as well fixed as any of them. I do not know as I could say whether they make a living or not or whether they have to go out a little more and work out. Mr. Boothe has worked out. I do not know whether he makes a living on his farm or not. Mr. Carnine and his boys worked out some. I don't know whether they were compelled to or not.

Q. You know C. N. Hagan?

A. Yes, sir.

441 Q. How long have you known him?

A. Since about '76.

Q. Do you know what his reputation is for truth and veracity in the community in which he lives?

Mr. WHITE. What do you know? If you know, say yes or no.

By the COURT. What is his reputation in the community in which he lives for truth and veracity; if so, do you know it?

A. How am I to make up the general reputation?

Mr. STOTT. Q. What is said about him generally in the neighborhood where he lives, not what you know; that is, what is said about him among his neighbors and acquaintances and friends?

A. That is a pretty hard question to answer.

Q. Do you know what the people generally say about him; has there been a general expression?

Mr. WHITE. Objected to.

A. I might hear probably a dozen speak of the man, and others wouldn't say anything at all.

By the COURT. The impression formed upon a man's mind by what he has heard, what people generally speak about a man so far as they have spoken of it.

A. I make up my mind from what I have heard.

COURT. I tell him if he knows his general reputation is for truth and veracity in the community where he resides, he may say so; do you know it?

A. I do not want to set myself up as a judge.

Mr. WHITE. I want that question answered?

442 Mr. STOTT. Q. What do you say to that question, do you know what his general reputation is for truth and veracity?

By Mr. WHITE. Answer that yes or no?

A. Yes.

By Mr. STOTT. Good or bad?

A. I should say it is not very extra; not bad as some, not as good as some.

Cross-examination by Mr. WHITE:

Q. Well, have you had any trouble with Mr. Hagan yourself, personally?

A. No, sir; never have.

Q. You have been over the land two or three times?

A. Yes, sir.

Q. Many years ago?

A. Yes, sir.

Q. You say that men that go upon that kind of land to clear, the first years have a hard time?

A. Yes, sir.

Q. If they are poor?

A. They do so.

Q. Takes a good many years' work if a man is poor and has nothing but himself to depend on to get a home on such land as this?

A. Yes.

Q. Could he in course of time get a home on a piece of land such as this you speak of here. What is your opinion about that?

443 A. He could get a home; as to what quality of land, I do not know in regard to that. I have heard so much both ways in regard to the quality of the land, I can hardly make up my mind.

Q. Heard so much both ways; it is pretty much discussed down there?

A. Yes.

Q. There has been a kind of partisan fight about the quality of the land among the settlers down there, hasn't there?

A. Yes, sir; been a good deal.

Q. Some insisting that it is fit for cultivation, and some insisting that it is not?

A. Yes, sir.

Q. One part of the people there they have been arrayed with Mr. Montgomery in his view of the land?

A. Yes, sir.

Q. And the others arrayed in favor of the Government's view of the land?

A. Yes, sir.

Q. Could you say anything about this land yourself, from what you have seen of it yourself, as to the character of the soil?

A. Judging from the fern I went through, the growth I saw, I should judge tolerably fair, the prairie part of it at least.

Q. What kind of fern and undergrowth were growing on that part that was on the prairie?

A. There was some salalle, I believe some huckleberry, and

444 some fern.

Q. Any brake; you know brake when you see it?

A. I know what it is; I do not remember noticing any brake.

Q. How about being stony on this land, as far as you noticed?

Ans. There was one place I recollect of striking some rocks; it was somewhere on the southeast portion of it. I do not recollect exactly, I had no compass.

Q. With the exception of that piece, what about the rocks on the land?

A. I didn't notice any rocks.

Q. You went through and over it how many times?

A. I believe I went through it twice, and been along the road three or four times.

Q. If the rocks were so thick on that land that they almost touched each other, you would have been apt to notice it?

A. I would have been likely to if there was rocke where I went.

Q. If that land was cleared of its timber, the roots taken out, would or would it not be fit for cultivation, that 160 acres?

A. I can't say in regard to that; I have not examined it enough.

Q. As far as you examined what you saw?

A. The prairie part would be.

Q. If the other part was cleared of its timber, would it be fit for cultivation?

A. If good as the prairie part, it would.

445 Mrs. ROGERS, called as a witness for the defense, being duly sworn, testified on direct examination as follows:

By Judge STOTT:

Q. You living on Silver Lake?

A. Yes, sir.

Q. How long have you lived there?

A. Eleven years.

Q. You know anything about farming on the hill lands on Silver Lake?

A. Yes, sir; we have had some experience.

Q. What success have you had in farming on hill lands?

A. You take it on top of the hill, where land does not live by manuring, we will get very fair crops if a favorable season.

Q. I suppose you do not use manure?

Ans. Do not get very good crops.

Q. On the side hills?

A. On the side hills it leaches; get nothing scarcely there; by manuring you get a crop one year, next year it is leached out after the wet weather.

Q. You paid any attention to the farming yourself?

A. Been obliged to help do it.

Q. How did that come?

A. Because we had not means to live on our place. I had to help do the work, and Mr. Rogers had to go out to work; I did the farming; a portion of it.

Q. What do you know about the farmers on Silver Lake being
446 able to sustain themselves on their farms by farming?

A. I looked over the witnesses here, and I don't know of a man that has taken a homestead or a piece of land that has been able to make a living on the land. Every one has had to go out to work.

Q. What about Mr. Carnines?

A. Mr. Carnines himself and one son has worked out every year until the last year or two.

Q. And he had the best place on the lake?

A. I think he has the most land in cultivation on the lake.

Q. Wasn't that known as a prairie farm?

A. It was considered prairie; called prairie when I came here.

Q. What do you know about Dixon's farm?

A. I do not know very much about anyone's farm except ours. I do not know anything about that particularly, but I have heard Mr. ——

Cross-examination by Mr. WHITE:

Q. How many acres have you cleared up on your farm, Mrs. Rogers?

A. Do you mean that we can plow?

Q. Yes; how many?

A. The land we have plowed?

Q. The land you cultivate.

A. We plow from 12 to 15 acres.

Q. How many acres do you have in pasture outside of that?

447 A. It is nearly all pasture. We have slashed and seeded a good portion of it.

Q. Burned it over?

A. Yes, sir.

Q. Have you rolled logs together and burned them?

A. A part of them.

Q. Is that land hill land?

A. Some of it.

Q. This land you slashed and seeded; that hill land?

A. Some of it, and some is lower.

Q. It will all grow grass timothy and clover will it not?

A. It will for a time.

Q. You keep that for pasture; that kind of land?

A. Yes, sir; if pastured in the winter it soon runs out.

Q. How many acres have you got slashed in pasture?

A. Well, I could not state how many.

Q. What proportion of the 160; I suppose you have a homestead?

A. No, sir; not a homestead; railroad land where we live.

Q. Bought from the R. R. company?

A. Yes, sir; there is some of it overflows; the bottom overflows.

Q. This hill land; how much of it is pasture land; this up on a hill?

A. We have no pasture land really on a hill; there is some not cleared, just burnt over; our pasture land is our meadow; after we mow off the grass we then pasture it.

Q. Your cows you have on the meadow from the hill land or the bottom land; do you have any meadow?

448 A. Yes, sir.

Q. You say the farmers on Silver Lake are unable to make a living on the farms?

A. I do not know of one but has been out to work.

Q. How long you been in that country?

A. Eleven years.

Q. Those who have got high land and as much as forty acres cleared can make a living on their farms?

A. I think very likely.

Q. These farmers who went in and took the best land about the lake; this bottom land?

A. That I can't tell you about.

Q. These farmers who have been in there about as long as you; what land did they settle on; did they take the hill land?

Ans. Some took hill and some bottom land.

Q. Clear it first, the bottom land, before they undertake to clear the upland?

A. I do not know they did.

Q. You only know that these people, from hearsay, that these people go out to make a living?

A. I hear them say they do, and I see them pass back and forth; pass by our house.

Q. Have you got a school in there yet?

A. We have occasionally; we have less than 15 scholars.

Q. You are a good ways from market?

A. Yes, sir.

Q. And quite anxious to get your country opened up and get fixed to live in there?

449 A. We hope to sometime, if some man with plenty of money comes along.

Q. You hope to have a capitalist with money come in and open up that country; that is the desire of you people there?

A. I couldn't tell what the people desire; I hope so.

Q. You know that in some way you hope to be able to get a railroad in there?

A. Yes, sir; hope to so'e day.

Q. Your people think Mr. Montgomery is the man who can do a great deal about bringing a railroad in?

A. That Mr. Montgomery?

Q. Yes.

A. No; I never heard of it.

Q. That he would cause a railroad to come in there and open up your timber land?

A. I never heard Mr. Montgomery mentioned. I have heard it remarked that when someone got hold of the timber with plenty of means, for poor men can't handle the timber, it would be a good thing for the country.

Q. That is your opinion?

A. I think the timber is all that is going to help the country.

Q. Your people are divided on the question whether this land is such as would be fit for cultivation, or whether it is not?

A. It may be. (Here the witness left the stand and went to
450 another part of the court room, when Mr. White desired to *to* ask her another question from where she stood, which he did, as follows:)

Q. Mrs. Rogers, did your husband take a timber claim?
A. He did, sir.
Q. Did Mr. Montgomery get that claim?
A. No, sir; he did not.
Q. Did Mr. Montgomery loan your husband money to take it up?
A. I could not tell you, sir.
Q. Your husband is here in the court room?
A. He is.

Mr. JAMES BOOTH, a witness for the defense, being duly sworn, testified on direct examination as follows:

By Judge STOTT:

Q. How old are you, Mr. Booth?
A. I am fifty-four.
Q. Where do you live?
A. Near Silver Lake.
Q. How long have you lived there?
A. I should judge I lived there about ten years.
Q. Do you know this Budd tract?
A. I do not.
A. Never been on it?
A. I may have been through it, not to know just where it was.
Q. Have you had any experience in clearing lands in that country?
A. I have had some little.
451 Q. Do you know what it cost to clear ordinary fir lands, covered with large firs, thirty or forty firs or cedars to the acre?
A. I can't say I do; that number.
Q. Up to that number or a less number?
A. It would cost from fifty to two hundred dollars, I should think, according to the clearing or quantity of timber lying on the place; some places where it is very thick probably it would cost more.
Q. How much is that kind of fir lands—suppose it is hill land, three, four, or five hundred feet above the lake—worth for farming, covered with fir and cedar, thirty or forty to the acre?
A. I would not think it of much value for farming lands.
Q. What has been the success of farmers around Silver Lake raising grain for supporting families on their farms?
A. I do not like to say; I am partly interested; it has been very poor.
Q. What has been the fact, whether they have or have not been able to sustain themselves—to make a living?
A. Not a family in there, to my knowledge, have sustained themselves off of the products of the farm entirely.

Cross-examination by Mr. WHITE:

Q. Why have they not sustained themselves by products of the farm?
A. From the fact that a majority of them have not got land cleared; what they have got cleared they can't raise enough off of it.
452 Q. What is the average amount cleared on each farm?
A. Well, there is from one acre up to forty, I should judge.
Q. How many acres did they have to clear on these farms around Silver Lake in order to make a living on their places?

A. According to the quality most men there want about eighty to scrub along with a living for a family.

Q. They can make a living for a family off of each eighty acres?

A. That depends on what kind of land it is.

Q. These farmers who have taken up lands, you know where they are?

A. Some.

Q. Name those you do know whose farms you know there.

A. Well, I think myself if I had 80 acres cleared I could make a living; I would scratch along a living.

Q. Who else?

A. Mr. Carnine.

Q. How many acres you got cleared?

A. I think I have got about twenty-five in cultivation.

Q. How much has Mr. Carnine?

A. I think he has got, judging from the looks, something near fifty acres.

Q. Are you an older or younger man than Mr. Carnine?

A. I judge I am older.

Q. Both of you been there about the same length of time?

A. Carnine came in there before I did.

Q. How many years?

A. I can not say.

453 Q. Is he a pretty industrious man?

A. I can say I would not like to answer that.

Q. I want you to say whether or not.

A. I wish to be excused from answering these questions; we are not very good friends.

Q. Are you a pretty industrious man?

A. I consider myself so.

Q. You work pretty hard.

A. Yes, sir.

Q. You cleared up how many acres?

A. I have got twenty-five acres in plow land.

Q. Mr. Carnine has forty?

A. He has forty or more.

Q. How much longer has Mr. Carnine been there than you?

A. I couldn't say the places; we are on at the present time, we were there about the same time; we have not done any clearing ourselves.

Q. How much was cleared on your place when you went there?

A. It was an open place, with few scattering trees, not fenced in; Carnine's was fenced in.

Q. How many acres were cleared off when you went there?

A. I can't tell you.

Q. You worked out about the same number of days, and he has worked out about the same way; have you, or do you work out more than he does?

A. In all probability I would have had to work out more; for-

454 tunately I got a thousand dollars.

Q. And you put that in?

A. That saved me working a little. As soon as that was gone I worked out more or less.

Q. You put that on the place?

A. Yes, sir, and living together.

Q. You thought enough of your claim to put that on the place?

A. I put most a thousand dollars in living and fixing up the place.

Q. That is pretty well done; I have put three or four on a place of the same kind; don't you think that a good investment?

A. I would rather be out of it.

Q. Would you take a thousand dollars and leave it?

A. I have offered it for fifteen hundred. I have twenty-five acres under plow, and I have got other land slashed and seeded down.

Q. You don't know whether you have been on the land in controversy or not?

A. I think I have been through it; I would not be sure.

Q. The community is divided on the question whether that land is farming land or not, in your community?

A. I do not know.

Q. Ain't it talked about a good deal; has not this claim been talked over a great deal down there?

A. Not in my presence.

Q. Haven't you heard it talked of?

455 A Heard some little talk.

Q. These people who came here to testify on behalf of the Government have been blamed a good deal, have they not?

A. I do not know they have been blamed any more on one side than on the other.

Q. Both sides blame each other?

A. It looks like it.

Redirect examination by Judge STOTT:

Q. You say you have how many acres of land?

A. One hundred and fifty-nine and some odd.

Q. How long have you been there?

A, In the neighborhood of ten years.

Q. You spent a thousand dollars you took there?

A. Took a thousand dollars in and spent it in living and on the place altogether.

Q. And you offer it for fifteen hundred?

A. I do offer it for fifteen hundred cash.

Q. And can't get a buyer?

A. Can't get a buyer.

Q. When Mr. Carnine went there he bought that place, didn't he?

A. I think he did.

Q. It was a place settled before he bought it?

A. Yes, sir.

Q. Wasn't there considerable clearing on it when he went there?

A. I think there was.

456 Q. It was a place settled before he bought it?

A. Yes, sir.

Q. Wasn't there considerable clearing on it when he went there?

A. I think there was.

Q. Several acres in cultivation?

A. Several acres in cultivation; I couldn't say as to the numbers.

Q. Did you buy your place or take it up under the law?
A. I bought it. There was nothing done on the place when I bought it.

By Mr. WHITE:

Q. Did you prove up on the place?
A. No, sir.
Q. Not proved up?
A. I bought it.

Mrs. HUNTINGTON, a witness for the defense, being duly sworn, testified as follows, on direct examination:

By Mr. STOTT:

Q. Where do you live?
A. Near Castle Rock.
Q. How long you lived there?
A. Eleven years.
Q. Do you know of this Silver Lake country?
A. I have been there.
Q. How long ago?
A. I was there in October, 1870. Just after the first settlers settled there.

457 Q. Do you know a place called Carnine's place?
A. I do.

Q. What sort of a place was that at that time?
It was considerable prairie land. There was small trees—clumps of trees dotted around on different parts.
Q. Was it settled at that time?
A. Yes, sir; there was a log house built on it.
Q. Was the place, that Dixon place, settled at the time also?
A. It was not.
Q. Was that an open place, too?
A. I do not know.
Q. Do you know the people out in Silver Lake pretty well?
A. I do.
Q. Do you know whether or not they sustain themselves by their farms, or go out to work?
A. They go out to work, I should say.
Q. Did you go out into that country with the view to locating there?
(Objected to.)
Cross-examination waived.

By Judge STOTT. We have no other witnesses except on the other question.

By Judge DENNISON. When the pleadings are put in form there will be evidence on both sides.

By the COURT. The case will be kept open for that purpose.

Defendants rest.

In rebuttal, by Judge DENNISON. We will have reasonable time in which to re-form our whole answer.

458 By the COURT. Yes, sir.

Mr. J. A. MUNDAY, recalled:

By Mr. WHITE:

Q. Did you take any samples of your own of that land when you were there?

A. I did.

Q. Have you got them with you?

A. I have.

Mr. STOTT. I object; it is not proper rebuttal; it was their case in chief if they wanted to make it; they introduced testimony as to the character of the soil.

By Mr. WHITE. They have introduced soil, and we want to rebut soil with soil.

By the COURT. And dirt with dirt.

By Mr. WHITE. Dirt with dirt and earth with earth.

By the COURT. I am inclined to let it go in.

(To which ruling of the court the defendant takes an exception; exception allowed.)

Mr. WHITE. Q. You took samples of soil on this land?

A. I did. I took samples of the soil on different 40s of this tract, and one or two or three other places; I have one or two of these samples I can't identify; the samples taken near the centers of the 40s, I have marked and can accurately identify.

Q. Open them so the gentlemen can see them and let the referee know where they came from?

A. They were taken last June when the soil was somewhat wet,
459 and you will find them a good deal parched and hard. That (indicating) was taken from the NE. 40 of the claim, and about twenty rods from the center. Here is a sample (indicating) from about the center of the NW. 40. Here is a sample marked D. E. B., No. 3, also from the NW. 40, on the small prairie near the west boundary, the northern continuation of the edge of the prairie. This (indicating) is from the SW. 40 of the Doughty, about 20 rods from the west boundary and 40 rods from the south boundary (enclosed in a cloth bag). Here is a sample (indicating) from the south, near the center of the SE. 40, D. E. B., No. 4. Another sample taken from some part of this claim, but the marks are obliterated so that the exact place from which it came can not be stated.

Q. Mr. Munday, did you take any samples of the surroundings, lands there, of any vegetation?

A. I did.

Q. Have you got that here?

A. I have; I took this sample of wheat from some hill land.

(By the DEFENSE.) We object to that as immaterial evidence and not proper rebuttal.

By the COURT. I do not believe that is unless it was taken from the same field where the man who testified (Mr. Wallberg) took his.

(The plaintiff now offers in evidence a bunch of oats and wheat, the stock of which is five feet long, offers to show it was taken from land similar to the land mentioned in the complaint in this action, and grew
460 there last year without any manure or anything of *of* the kind put on the land from which to derive strength.

Defendants object for the reason immaterial and not proper rebuttal. Objection sustained, to which ruling of the court the plaintiff here and now except.)

By the COURT. The testimony in this case can be closed at next term (April, 1888).

(John W. Cochran, stenographer.)

APRIL TERM, A. D. 1888.

U. S. vs. D. C. Budd and James B. Montgomery, resumed.

By Mr. WHITE. We submit the evidence taken on the re'ial of this case at November term of this court, now on file with the clerk of this court.

By Judge DENNISON. The next evidence we offer is a certified (copy) or transcript of the field notes of this land in 1883 by the U. S. surveyor, in which he noted the character of the land and timber in compliance with the law. (No objection.) Next is a certified copy of instructions received from the Commissioner of the General Land Office, filed in the local land office here October 17th, 1870, relating to disposition of lands within railroad limits of Joseph Wilson, Commissioner.

By Mr. WHITE. We object to this, your honor, because not cer-
461 tified by the officer authorized by law to certify to it.

DENNISON. It is a circular instruction addressed to local office here.

(Admitted, and exception taken by Mr. White.)

That is all the documentary and all of our evidence in this case, and rest in the case against David E. Budd and J. B. Montgomery.

All rest.

U. S. vs. David E. Budd and James B. Montgomery.

This report from first page to last, inclusive. Trial Nov., 1887, and April, 1888, contains all the oral testimony offered; also a complete record of all the introductions of documentary testimony; also all objections of counsel, rulings thereon, and exceptions thereto by said counsel.

JOHN W. COCHRAN,
Stenographer in the case, by agreement.

(Endorsed:) Recorded and filed this eighth day of February, A. D. 1888. A. Reeves Ayres, clerk. By W. H. Johnson, deputy.

461a *Abstract of land sold at the land office at Vancouver, Wash. Ter., from the 1st day of October, 1882, to the , so far as relates to the entries, entrymen, & tracts stated below.*

When sold, 1882. Number of receipt and certificate. By whom purchased. Name, residence. Tract purchased. Section or part of section, No. of section, No. of township, No. of range. Quantity, acres. Price per acre, dollars, cents. General Land Office tract book, volume, folio.

October 10, 2018, Edward J. Searles, Cowlitz Co., W. T., S. 2 of NW. 4 & N. 2 of SW. 4, 8, 9 N., 1 W., 160, 2.50, 400, act of June 3, 1878; cancelled per Comm'r's letter "P," of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m.

November 10, 2034, John H. Steffin, Multnomah Co., Oregon, NE. 4, 12, 9 N., 1 W, 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P," of Feb'y 13, 1886, and noted here Feb'y 28, 1886, at 3 p. m.

November 10, 2035, Alvin B. Hastings, Multnomah Co., Oregon, NE. 4, 18, 9 N., 1 E., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P," of Feb'y 13, 1886, & noted here Feb'y 23, 1886, at 3 p. m.

November 10, 2036, Chas. C. Cornell, Multnomah Co., Oregon, E. 2 NW. 4, & lots 1 & 2, 18, 9 N., 1 E., 167.51, 2.50, 418.77, act June 3, 1878; cancelled per Comm'r's letter "P," of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m.

461b December 13, 2047, Chas. A. Harmon, Cowlitz Co., W. T., E. 2, NE. 4 & E. 2, SE. 4, 22, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P," of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p m.

December 13, 2048, John Mangs, Cowlitz Co., W. T., E. 2 of NE. 4, SW. 4 of NE. 4 and NE. 4 of SE. 4, 14, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P," of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m.

December 14, 2049, George M. Rogers, Cowlitz Co., W. T., W. 2 of NW. 4 and W. 2 of SW. 4, 22, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m. December 14, 2050m, George W. Taylor, Cowlitz Co., W. T., SW. 4 of NE. 4 and W. 2 of SE. 4 and SE. 4 of NE. 4, 8, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m.

1883. March 17, 2077, Allen A. Uncless, Multnomah Co., Oregon, E. 2 of NE. 4, and NE. 4 of SE. 4, 20, 9 N., 1 W., 120, 2.50, 300, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m. March 17, 2078, James K. Misner, Multnomah Co., Oregon, E. 2 of NW. 4 and NW. 4 of NE. 4, 6, 9 N., 1 W., 120, 2.50, 300, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m.

461c March 17, 2079, George M. Misner, Multnomah Co., Oregon, W. 2 of NW. 4 & W. 2 of SW. 4, 6, 9 N., 1 W., 143.68, 2.50, 359.20, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 18, 1886, and noted here Feb'y 26, 1886, at 3 p. m. June 15, 2146, Wm. A. Freeman, Multnomah Co., Oregon, SE. 4, 28, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P" of April 15, 1886, and noted here April 23, 1886, at 9 a m.

June 16, 2147, Michael H. McManus, Multnomah Co., Oregon, SE. 4, 32, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 18, 1886, and noted here Feb'y 26, 1886, at 9 a m.

June 16, 2148, Mark Woods, Multnomah Co., Oregon, E. 2 of SW. 4 & NW. 4 of SW. 4, 18, 9 N., 1 W., 116.50, 2.50, 291.25, act June 3, 1878; cancelled per Comm'r's letter "P" of June 14, 1886, and noted here June 22, 1886, at 9 a. m.

June 16, 2149, Alexander Lothian, Multnomah Co., Oregon, SW. 4, 32, 9 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P" of Feb'y 13, 1886, and noted here Feb'y 23, 1886, at 3 p. m.

June 20, 2156, William D. O'Regun, Multnomah Co., Oregon, SW. 4 22, 10 N., 1 W., 160, 2.50, 400, act June 3, 1878; cancelled per Comm'r's letter "P" of Apr. 16, 1886, and noted Apr. 23, 1886, at 9 a. m.

June 20, 2158, Maurice J. Gleason, Multnomah Co., Oregon, NE. 4, 34, 9 N., 1 W., 160, 400, act June 3, 1878; cancelled per Comm'r's
461d letter "P" of Apr. 15, 1886, and noted here Apr. 23, 1886, at 9 a. m.

TERRITORY OF WASHINGTON,
County of Clarke, ss:

We, W. S. Austin, register, & John O'Kane, receiver, of the United States land office, at Vancouver, Wash. Ter., do hereby certify that the within & foregoing is a true & correct copy & exemplification of the records of the Vancouver land district of Washington Territory as found recorded in register of cash entries so far as relates to entries hereinbefore described, to wit: Timber-land entries No. 2018, 2034, 2035, 2036, 2047, 2048, 2049, 2050, 2077, 2078, 2079, 2146, 2147, 2148, 2149, 2156, & 2158.

W. S. AUSTIN,
Register of the United States Land Office at Vancouver, Wash. Ter.
JOHN O'KEANE,
Receiver Public Moneys at Vancouver Land Office, Wash. Ter.

(Endorsement:) Case 1813. Pl'fs Ex. B 4. Nov. 23, '87. John
461e W. Cochran, stenographer. Referee, M. P. R. Rd. record.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Sept. 20th, 1870.

REGISTER & RECEIVER,
Vancouver, Washington Ter.:

GENTLEMEN: I transmit herewith a diagram showing the designated route of the Northern Pacific Railroad under act of July 2, 1864, and by direction of the Secretary of the Interior you are directed to with'old from sale or location preëmption or homestead entry all the odd-numbered sections of public lands falling within the limit of 20 miles as designated on this map.

You will also increase in price to $2.50 per acre the even-numbered sections within these limits, and dispose of them at that ratability under the preëmption and homestead laws only; no private entry of the same being admissible until these lands have been offered at the increased price.

This order will take effect from the date of its receipt by you, and you are requested to acknowledge without delay the time of its receipt.

Very repectfully,

JOS. S. WILSON,
Commissioner.

461f LAND OFFICE AT VANCOUVER, W. T.,
Dec. 7, 1887.

We, the undersigned, hereby certify the foregoing to be a true and correct copy of a letter of instructions now on file in the land office at Vancouver, W. T., and that the same has endorsed thereon the following:

"Withdrawal of land in favor of the N. P. R. R. Filed Oct. 17, 1870. Enoch G. Adams, register"

W. S. AUSTIN, *Register.*
JOHN O'KEANE, *Receiver.*

(Endorsement:) Withdrawal of lands in favor of N. P. R. R. Filed Oct. 17, 1870. Enoch G. Adams, register. Dft. Ex. offered on trial. D. E. Budd & J. B. M. Case. John W. Cochran, stenographer.

461 g

UNITED STATES LAND OFFICE,
Vancouver, Wash. Ter.

Page 118. Township No. 9 north, R. No. 1 W., W. M. All of this township excepting the school sections 16 & 36 offerred. No bids on any portion.

TERRITORY OF WASHINGTON,
County of Clarke, ss:

We, W. S. Austin, register, & John O'Keane, receiver, of the United States land office at Vancouver, Wash. Ter., do hereby certify that the foregoing is a true & correct copy & exemplification of the records of the Vancouver land district of Washington Territory as found recorded on page 118 of abstract of public sales of August 3rd, 1863, so far as the same relates to township No. 9 north, range No. 1 W., Will. mer.

W. S. AUSTIN,
Register of the United States Land Office,
Vancouver, Wash. Ter.
JOHN O'KEANE,
Receiver of Public Moneys at Vancouver
Land Office, Wash. Ter.

(Endorsement:) Case 1813. Plfs. Ex. "B–2." Nov. 23, '887. John W. Cochran, stenographer, referee.

461 h *Township 9 north, range 1 west of the Willamette meridian, W. T.*

Transcript of the field notes of the survey of section 12, T. 9 N., R. 1 W. of the W. M., W. T.

East b'd'y of sec. 12 is the Willamette meridian.

From the cor. to secs. 7, 12, 13, and 18, which is a post from which
A cedar 18 in. dia. bears S. 71, W. 90 lks. dist.
A fir 24 " " bears N. 20, W. 33 " "
A " 16 " " " N. 32, E. 124 " " " "
A cedar 18 " " " S. 39, E. 59 " "

North on the boundary of section 12; variation 19.30′ east.

19.29 A fir 40 in. diam.
40.00 Set qr. section post from which
A cedar 18 in. dia. bears S. 58, W. 10 lks. dist.
A maple 10 in. dia. bears N. 26, E. 42 lks. dis.
Variation 2045′ east.
45.30 Head of a stream, course NW.
53.78 A cedar 24 in. diam.
70.60 A fir 20 in. diam.
72.50 A stream 1 link wide, course NW.
80.00 Set post corner of secs. 1, 12, 6, & 7, from which—
A fir 16 in. diam. bears S. 18, E. 22 lks. dist.
A fir 16 in diam. bears S. 80, W. 20 lks. dist.

461 i A cedar 12 in. diam. bears N. 49, W. 60 lks. dist.
A cedar 12 in. diam. bears N. 47, E. 26 lks. dist.
Land rolling; very little soil; surface covered with stone, timber, fir, cedar, hemlock, &c., burnt over, partly dead & fallen.
From the corner to secs. 11, 12, 13, & 14, which is a post, from which—
A cedar 12 in. dia. bears N. 40, E. 50 lks. dist.
A cedar 10 in. dia. bears S. 44, E. 18 lks. dist.
A cedar 10 in. dia. bears N. 66, W. 38 lks. dist.
A cedar 20 in. dia. bears S. 46, W. 59 lks. dist.
East on a random line between sections 12 & 13, var. 23 east.
Commence ascending at post.
25.00 Top of hill 50 ft. high bears SE.
40.00 Set temporary ¼ post.
97.80 Intersect the east boundary of the township 45 links north of post corner to sections 12 & 13, west on true line bet. secs. 12 & 13; var. 22, 41′ east.
39.90 Set a post for ¼ sec. cor., from which—
A maple 12 in. dia. bears N. 20, E. 42 lks. dist.
A cedar 20 in. dia. bears S. 35, E. 40 lks. dist.
79.80 The corner to secs. 11, 12, 13, & 14.
Land rolling; soil 2nd rate. Timber fir and cedar. Undergrowth vine maple.
461 j North between sections 11 and 12. Var. 23 east.
14.51 A cedar 20 in. dia.
40.00 Set a post for ¼ sec. cor., from which
A cedar 14 in. dia. bears N. 8. W. 25 lks. dist.
A fir 26 in. dia. bears N. 8. E. 20 lks. dist.
43.00 Brook 2 links wide, course west.
49.00 Brook 3 links wide, course west.
59.00 Brook 1 link wide, course west.
60.00 Enter marsh bears E. and W.
65.00 Leave marsh bears E. and W.
80.00 Set a post for corner to secs. 1, 2, 11, and 12, from which
A fir 24 in. dia. bears S. 20 E., 64 lks. dist.
A cedar 15 in. dia. bears S. 42 W., 42 lks. dist.
A cedar 12 in. dia. bears N. 60 W., 51 lks. dist.
A maple 20 in. dia. bears N. 25 E., 28 lks. dist.
Land rolling and part of it stony. Soil 2d rate. Timber fir, cedar, and hemlock.
Undergrowth vine maple.

MAY 3d, 1858.

East on a random line between secs. 1 and 12. Var. 21 east.
Commence ascending.
17.50 Top of hill 40 feet high, bears N. and S. and begin to descend.
461 k 23.00 Foot of hill and enter bottom bears N. and S.
25.30 Brook 1 link wide, course NW.
31.00 Leave bottom bears NE.
40.00 Set temporary ¼ sec. post.

53.20 Brook 2 links wide, course N. and begin to ascend.
65.00 Top of hill 50 feet high, bears N. S. and begin to descend.
79.68 Intersect the east boundary of the township 76 links N. of the post for corner to sections 1 and 12.
West on true line between secs. 1 and 12. Var. 20 27′ east.
39.84 Set a post for ¼ sec. cor., from which
A cedar 18 in. dia. bears N. 48 W., 81 lks. dist.
A fir 24 in. dia. bears S. 60 W., 37 lks. dist.
79.68 The corner to sections 1, 12, 11, and 2.
Land rolling, soil 1st rate.
Timber fir and cedar, undergrowth vine maple.

461 1 OFFICE OF UNITED STATES SURVEYOR-GENERAL,
WASHINGTON TERRITORY;
Olympia, April 6th, 1887.

I do hereby certify that the annexed transcript of the field notes of the survey of section 12, township 9 N., R. 1 west of the Willamette meridian, Washington Territory, has been compared by me with the original and is a correct copy of the same and of the whole thereof, as the same appears of record and on file in my office and in my custody.

I further certify that I have no seal of office.

J. CAHELL BRECKINRIDGE,
U. S. Surveyor-General, Washington Territory.

(Endorsement:) Survey of section 12, Tp. 9 N., R. 1 W. Dft. Ex. "A" offeeed at close of trial April 3, 1888. J. W. Cochran, stenographer. D. E. Budd & J. B. M. case. John W. Cochran, stenographer.

(Here follows diagram marked 461 M.)

462 "P."

H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate, No. 2018, in the name of Edward J. Searls, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
July 25th, 1882.

I, Edward J. Searls, of Cowlitz County, Washington Ter., desiring to avail myself of the provisions of the act of Congress of June 3rd, 1878,

entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the south ½ of northwest ¼, N. ½ of SW. ¼ of section 8, township 9
463 north of range 1 west, do solemnly swear that I am the head of a family and have declared my intention to become a citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith, to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

EDWARS J. SEARLS.

Sworn to and subscribed before me this 25th day of July, 1882.

FRED W. SPARLING,
Register.

(Endorsed) Timber lands, act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 8, township 9 north, range 1 west. Edward J. Searls.

464 STATE OF OREGON,
Columbia County, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published in the town of St. Helen and county of Columbia, State of Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning July 28th, 1882, and ending September 29th, A. D. 1882, being ten successive issues of said newspaper, both days being included. Printer's fee, $1.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 30th day of Sept., A. D. 1882.
[SEAL.]

S. G. CANDLE,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Edward J. Searls.

465 *Notice of application to purchase timber land.*

LAND OFFICE AT VANCOUVER, W. T.,
July 25th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3rd, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in

Washington Territory," Edward J. Searls, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the south ½ of northwest ¼ and north ½ of south W. ¼ of section 8, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, W. T., on Friday, October 6th, 1882. Any and all persons having adverse claims to the above described land or any portion thereof are hereby required to file their claims in the office within sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

No. 51 J. 28.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
October 10th, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said
466 notice on the 25th day of July, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Edward J. Searls.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T., *July 25th*, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3rd, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Edward J. Searls, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the south ½ of northwest ¼ and north ½ of southwest ¼ of section 8, township 9 north, of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, W. T., on Friday, October 6th, 1882.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty days (60) from date hereof.

FRED. W. SPARLING,
Register.

N 52, J 28.

467 UNITED STATES OF AMERICA,
Territory of Washington, second judicial district, ss:

I, Edward J. Searls, do declare on oath that it is bona fide my intention to become a citizen of the United States of America, and to renounce for-

ever all allegiance and fidelity to all and every prince, potentate, state, and sovereignty whatever, and particularly to Queen Victoria, whose subject I was.

EDWARD J. SEARLS.

Subscribed and sworn to before me this 25th day of January, A. D. 1882.

H. H. HOLT,
Dept. Clerk.

I, R. G. O'Brien, clerk of the district court of the second judicial district, Washington Territory, hereby certify that the above is a true copy of the declaration of intention of Edward J. Searls to become a citizen of the United States, as the same appears of record in my office.

Witness my hand and the seal of said court at Kalama, 25th day of January, 1882.

R. G. O'BRIEN, *Clerk.*
[SEAL OF U. S. DISTRICT COURT.] By H. H. HOLT, *Deputy.*

On margin of said copy is the following, to wit: U. S. Land Office, Vancouver, W. T., July 25, 1882. I hereby certify that this is a true copy of the original. Fred. W. Sparling, register.

468 (Endorsed:) Copy of declaration of intention of Edward J. Searls.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Edward J. Searls to purchase the south half of the northwest quarter and north half of southwest quarter of section eight, township nine north, of range one west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz County, Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In July last, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough, broken, and stony.

469 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that I examined it with a view to find what it was most valuable for.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that
470 each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 6th day of October, 1882.

S. W. BEALL, [SEAL.]
Probate Judge, Cowlitz County, Washington Territory.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testified falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person, who having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgement against him is reversed. (See S. 1750.)

Approved:

FRED. W. SPARLING,
Register.
S. W. BROWN,
Receiver.

471 Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 8, township 9 north, range 1 west.

(4–371.)

(The testimony of two witnesses in this form, taken separately, required in each case.)

Testimony of witness, under act of June 3, 1878.

GEORGE W. TAYLOR, being called as a witness in support of the application of Edward J. Searls, to purchase the south half of northwest quarter and north half of southwest quarter of section eight, township nine, north of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, Wash. Ter.

Ques. 2. What is your occupation?

Ans. Laborer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In August last, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not
472 made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough, rocky, and broken by ravines.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. I have never seen any.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is covered with heavy timber and it is unfit for cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or
473 in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE W. TAYLOR.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 6th day of October, 1882.

S. W. BEALL. [SEAL.]
Probate Judge, Cowlitz County, Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe
474 to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands; act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 8, township 9 north, range 1 west.

(4–131.) No. 2,078.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
October 10, 1882.

Received from Edward J. Searls, Cowlitz County, Washington Territory, the sum of four hundred dollars and cents, being in full for the south half of the northwest quarter and the north half of the southwest quarter of section No. Eight, in township No. Nine, north of range No. One west, Will. Mer., containing one hundred and sixty acres and one-hundredths, at $2.50 per acre.

S. W. BROWN,
Receiver.

Fee for examining testimony $3. 50
Fee for allowing entry..... 10. 00
Paid.
$400.00.

475 No. 2,018. LAND OFFICE AT VANCOUVER, W. T.,
Oct. 10th, 1882.

It is hereby certified that, in pursuance of law, Edward J. Searls, Cowlitz County, of Washington Ter., on this day purchased of the register of this office the south half of the northwest quarter and north half of southwest quarter of section No. Eight (8), in township No. 9, north of range No. 1 west, Will. Mer., containing one hundred and sixty acres (60), at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Edward J. Searls has made payment in full, as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said Edward J. Searls shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

Across the face of said entry is the following, to wit: Act of June 3, 1878. Canceled by letter "P," Feb'y 13, 1886. H. H. J. B. B. J., chief div., "P."

(Endorsed:) No. 2,018. Cash entry. Vancouver, Wash. Ter. Sec. 8, T. 9, R. 1 W. App'd Feb'y 9, 1883. Div. "C," Ex. G. B. C. Held for cancellation by letter "P," Oct. 31, 1885. W. W. W. Canceled by letter "P," Feb'y 13, 1886. H. H. J., B. B. P. 1 N. & W., 51. Case No. 1813. Plff's Ex. "A," Nov. 22nd, 1887. John W. Cochran, stenographer, referee.

476 "P." (4–207.) H. H. J., B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2024, in the name of James B. Montgomery, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

(4–537.) *Sworn statement under act of June 3, 1878.*

LAND OFFICE AT VANCOUVER, W. T.,
August 21st, 1882.

I, James B. Montgomery, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southwest ¼ sec. 10, township 9, north of range 1 west, do solemnly swear

that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or
477 other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United State may inure in whole or in part to the benefit of any person except myself.

JAMES B. MONTGOMERY.

Sworn to and subscribed before me this 21st day of August, 1882.

FRED. W. SPARLING, *Register*.

(Endorsed:) Timber lands; act, June 3, 1878. Sworn statement, land office at Vancouver, Wash. Ter.; sec. 10, township 9 north, range 1 west. James B. Montgomery.

478 STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbia, a weekly newspaper published in St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning August 25th, A. D. 1882, and ending October 27th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 28th day of October, A. D. 1882.

S. G. CAUDLE, [SEAL.]
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of James B. Montgomery.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 21, 1882.

Notice is hereby given, that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled, "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," James B. Montgomery, of Multnomah County, Ore-
479 gon, has this day filed in this office his application to purchase the south W. ½ of section 10, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Saturday, October 28th, 1882.

Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING, *Register.*

v 3 n 3 a 25.
No.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
Aug. 21*st*, 1882. h.

Notice is hereby given that in compliance with the provsions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," James B. Montgomery, of Multnomah County, Oregon, has this day filed in this office his application to purchase the south W. ½ of section 10, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Saturday, October 28th, 1882.

Any and all *reasons* having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in
480 this office within sixty (60) days from date hereof.

FRED. W. SPARLING, *Register.*

v 3 n 3 a 25.

Certificate as to posting of notice.

(4–227.)

LAND OFFICE AT VANDCOUVER, W. T.,
Oct. 28, 1882.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 21st day of August, 1882.

FRED. W. SPARLING, *Register.*

(Endorsed:) Register's certificate as to posting of notice in case of James B. Montgomery.
(4–371.)

(The testimony of two witnesses, in this form, taken separately, required in each case.)

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of James B. Montgomery to purchase the southwest ¼ of section 10, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your pose-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is you occupation?

481 Ans. Fermer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In August, 1882, by walking over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and has no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough, broken, and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. Not that I have ever seen.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is heavily timbered, and the surface is too uneven for

482 cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 28th day of October, 1882.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes,

and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

483 SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

Approved:

FRED. W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 10, township 9 north, range 1 west.

484 (4–371.)

(The testimony of two witnesses, in this form, taken separately required in each case.)

Testimony of witness under act of June 3, 1878.

GEORGE W. TAYLOR, being called as a witness in support of the application of James B. Montgomery to purchase the southwest ¼ of section 10, township 9, north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Laborer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In August, 1882, by passing over the same on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and no improvements on the land that I know of.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

485 Ans. It is very uneven, cut up with ravines, and rocky.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. There are no such indications.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is covered with good timber and the surface is so uneven and stony as to render it unfit for cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE W. TAYLOR.

486 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 28th day of October, 1882.

FRED. W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal officer, or person in any case which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING,
Register.

S. W. BROWN,
Receiver.

487 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 10, township 9 north, range 1 west.

No. 2024. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
October 28th, 1882.

Received from James B. Montgomery, of Multnomah County, Oregon, the sum of four hundred dollars and cents; being in full for the southwest quarter of section No. ten, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for examining testimony $3.15
Fees for allowing entry 10.00
Paid.

S. W. BROWN,
Receiver.

$400.00.

Cowlitz County as per proof.

(Across the face of said receipt is the following, to wit: Act June 3, 1878.)

No. 2024. LAND OFFICE AT VANCOUVER, W. T.,
Oct. 28th, 1882.

It is hereby certified that in pursuance of law James B. Montgomery, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office, the southwest quarter of section No. ten (10), in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollar*d* and cents, for which the said James B.
488 Montgomery has made payment in full as required by law.

Now, therefore, be it known that on presentation of the certificate to the Commissioner of the General Land Office, the said James B. Montgomery shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

(Across the face of said entry is the following, to wit: Act June 3, 1878.)

(Endorsed:) No. 2024. Cash entry. Vancouver, Wash. Ter. Sec. 10, T. 9 N., R. 1 W. App. Feb'y 9, 1883. Div. "C" G. B. C. Ex. Oct. 30, '85. See letter P. to R. & R. Claim held for cancellation. (A. S. McC.) Hearing ordered April 2, '86. H. H. J.

1 n/& W.
52.

(Endorsed:) Case 1813. Plffs. Ex. "B," Nov. 22, 1887. John W. Cochran, stenographer. Referee.

489 "P." (4–207.) H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2025, in the name of Edward W. Bingham, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

WM. A. J. SPARKS,
Commissioner of General Land Office.

(4–537.) *Sworn statement, under act of June* 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
August 21st, 1882.

I, Edward W. Bingham, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the south ½ of the northeast quarter and north ½ of the southeast ¼ of sec. 10, township 9 north, of range 1 west, do solemnly swear that I am above the age of twenty-one years, and a native-born citizen of
490 the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person but myself.

EDWARD W. BINGHAM.

Sworn to and subscribed before me this 21st day of August, 1882.
FRED W. SPARLING,
Register.

(Endorsed:) Timber lands, act of June 3, 1878. Sworn statement. Land Office at Vancouver, Wash. Ter., sec. 10, township 9 north, range 1 west. Edward W. Bingham.

491 STATE OF OREGON,
County of Columbia, ss:

Enoch G. Adams, being sworn, depose that I am publisher of the Columbia, a weekly newspaper published at St. Helen, Columbia County,

Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Aug. 25th, A. D. 1882, and ending October 27th, A. D. 1882, both days included, being ten successive issues of said newspaper.

ENOCH G. ADAMS.

Printer's fee, $10.00.

Subscribed and sworn to before me this 28th day of October, A. D. 1882.

[SEAL.]

S. G. CANDLE,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Edward W. Bingham.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 21st, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in
492 Washington Territory," Edward W. Bingham, of Multnomah County, Oregon, has this day filed in this office his application to purchase the south ½ of northeast ¼ and north ½ of southeast ¼ of section 10, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Saturday, October 28th, 1882.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

n3n3a5.

(4–227.) *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
October 28th, 1882.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 21st day of August, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Register certificate as to posting of notice in case of Edward W. Bingham.

493 *Notice of application to purchase timber land.*

LAND OFFICE AT VANCOUVER, W. T.,
August 1*st*, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Edward W. Bingham, of Multnomah County, Oregon, has this day filed in this office his application to purchase the south ½ of northeast ¼, and north ½ of southeast ¼ of section 10, township 9, north of range 1 W., of the Willamette meridian.

Testimony in the above cause will be taken before the register and receiver at Vancouver, W. T., on Saturday, October 28th, 1882.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixt*i* (60) days from date hereof.

FRED. W. SPARLING,
Register.

v3n3a5.

Testimony of witness under act of June 3, 1878.

GEORGE W. TAYLOR, being called as a witness in support of the application of Edward W. Bingham, to purchase the south half of northeast ¼ and north half of southeast ¼ of section 10, township 9, north of range 1 west, testifies as follows:

494 Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Laborer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivision?

Ans. I am.

Ques. 4. When, and in what manner was such inspection made?

Ans. In August, 1882, by walking over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The surface of the land is very uneven, stony, and cut up with gulches.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. No, sir; not that I have ever seen.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

495 Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is covered with heavy timber and the land is too broken to be cultivated with profit.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. No, sir.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. No, sir.

GEORGE W. TAYLOR.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 28th day of October, 1882.

FRED. W. SPARLING, *Register*.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised
496 Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully, and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reserved. (See S 1750.)

Approved:

FRED. W. SPARLING, *Register*.
S. W. BROWN, *Receiver*.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 10, township 9 north, range 1 west.
497 (4–371.)

(The testimony of two witnesses, in this form, taken separately, required in each case.)

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Edward W. Bingham to purchase the south ½ of the northeast quarter and north ½ of southeast quarter of section 10, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which was not made by or do not belong to the said applicant?

Ans. It is not occupied and has no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough and broken and stony.

498 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. No, sir.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is covered with an excellent quality of timber, and the land is stony and broken, and unfit for cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

499 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and the same was subscribed and sworn to before me this 28th day of October, 1882.

FRED. W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, *or* guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S 1750.)

Approved:

FRED. W. SPARLING,
Register.

S. W. BROWN,
Receiver.

500 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T. Section 10, township 9 north, range 1 west.

(4–131.) No. 2025.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
October 28th, 1882.

Received from Edward W. Bingham, of Multnomah County, Oregon, the sum of four hundred dollars and —— cents, being in full for the south ½ of the northeast ¼ and the north ½ of the southeast ¼ of section No. 10, in township No. 9 north, of range No. 1 west, Will. Mer., containing one hundred and sixty acres and —— hundredths, at $2.50 per acre.

Fees for examining testimony..... $3.15
Fees for allowing entry..... 10.00
Paid.

S. W. BROWN,
Receiver.

$400.00.

Cowlitz County, as shown by proof.

Across the face of said receipt is the following: Act of June 3, 1878.

501 No. 2025. LAND OFFICE AT VANCOUVER, W. T.,
Oct. 28th, 1882.

It is hereby certified that in pursuance of law Edward W. Bingham, Cowlitz County, *State* of Wash. Ter., on this day purchased of the register

of this office the *lot or* south half of northeast quarter and north half of southeast quarter of section No. ten (10), in township No. 9 north, of range No. 1 west, Will. Mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and —— cents, for which the said Edward W. Bingham has made payment in full, as required by law.

Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said Edward W. Bingham shall be entitled to secure a patent for the lot above described. (Act June 3, 1878.)

FRED. W. SPARLING,
Register.

(Endorsed:) No. 2025. Cash entry. Vancouver, Wash. Ter. Sec. 10, T. 9 N., R. 1 W. App'd Feb'y 9, 1883. Div. "C." G. B. C. Ex. Nov. 3, '85. Entry held for cancellation. (A. S. McC.) Hearing ordered April 2, '86. H. H. J. 1 N. & W. 52.

(Endorsed:) Case 1813. Pl'ff's Ex. "C." Nov. 22, 1887. John W. Cochran, stenographer. Referee.

502 (4–207.) "P." H. H. J. B. B. J.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate, No. 2033, in the name of David E. Budd, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of General Land Office.

(4–537.) *Sworn statement under act of June* 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

I, David E. Budd, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southeast ¼ of section 12, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of
503 gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it

to my own exclusive use and benefit, and that I have not, directly or indidirectly, made any agreement or contract in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

DAVID E. BUDD.

Sworn to and subscribed before me this 23rd day of August, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Timber lands act, June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 12, township 9 north, range 1 west. David E. Budd.

STATE OF OREGON,
County of Columbia, ss.

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbia, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Washington Territory, and that said notice of application to purchase timber
504 land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Sept. 8th, A. D. 1882, and ending November 10th, A. D. 1882, both days included, being ten successive issues of said newspaper. Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 13th day of November, A. D. 1882.

[SEAL.] W. H. CONGERS,
Co. Clk.

(Endorsed:) Proof of publication of notice in case of David E. Budd.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3rd, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washing Territory," David E. Budd, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast ¼ of section 12, township 9 north, of range 1, W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver, at Vancouver, Wash. Ter., on Friday, November 10th, 1882.

Any and all persons having adverse claims to to the above described lands, or any portion thereof, are hereby required to file their
505 claims in this office within sixty (60) days from date herein.

FRED W. SPARLING,
Register.

(4–227.) *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
November 10th, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 23rd day of August, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of David E. Budd.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3rd, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," David E. Budd, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast quarter of section twelve, township nine north of range one west of the Willamette meridian.

Testimony in the above case will be taken before the
506 register and receiver, at Vancouver, Wash. Ter., on Friday, November 10th, 1882.

Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office with sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

v3n3a25.

(4–371.)

(The testimony of two witnesses, in this form, taken separately, required in each case.)

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of David E. Budd, to purchase the southeast ¼ of sec. 12, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your pose-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Fermer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of its smallest legal subdivisions?

Ans. I am.

507 Ques. 4. When, and in what manner, was such inspection made?

Ans. About the 15th of August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and has no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is broken and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. There is not to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is stony and broken, and unfit for farming purposes; it has a good body of timber on it.

Ques. 11. Do you knew whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with
508 any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. No, sir.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me, this 10th day of November, 1882.

FRED W. SPARLING, *Register*.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, de-

pose, or certify truly, or that any written testimony, declaration, depo-
509 sition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reserved. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 12, township 9 north, range 1 west.

(4–371.)

(The testimony of two witnesses, in this form, taken separately, requires in each case.)

Testimony of witness, under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of David E. Budd, to purchase the southeast ¼ of section 12, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your pose-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

510 Ans. Farmer.

Ques. 8. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of November, 1882, by going over it on foot.

Ques. 5. *It is* occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with ravines, and is stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. No, sir.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It has a fine body of timber on it, and the surface is too rough for cultivation.

511 Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber, or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX—CRIMES?—CH. 4.

SEC. 5392. Every person who, having taken an oath before a com-
512 petent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administrated, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED. W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 12, township 9 north, range 1 west.

No. 2033.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
November 10, 1882.

Received from David E. Budd, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southeast

quarter of section No. twelve, in township No. nine north, of range one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing..... $3.15
Fees for allowing entry 10.00
Paid.

$400.00.

S. W. BROWN,
Receiver.

513 No. 2033. LAND OFFICE AT VANCOUVER, W. T.,
Nov., 10th, 1882.

It is hereby certified that, in pursuance of law, David E. Budd, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the southeast quarter of section No. twelve (12), in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said David E. Budd has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said David E. Budd shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

Across the face of said entry is the following: "Act June 3rd, 1878."

(Endorsed:) No. 2033. Cash entry. Vancouver, Wash. Ter. Sec. 12, T. 9 N., R. 1 W. T. L. App'd Mch. 3rd, 1883. Ex. Castle. Pat. May 5th, 1883. Rec., vol. 4, page 406. Nov. 28, '85. Suit recommended to set aside patent. W. W. W. "P." $\frac{1\ N\ \&\ W}{27.}$

(Endorsed:) Case 1813. Plffs. Ex. "D." John W. Cochran, stenographer. Referee.

514 "P." (4-207) $\frac{H.\ H.\ J.}{B.\ B.\ J.}$

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed coppies of Vancouver, W. T., cash certificate No. 2034, in the name of John H. Steffen, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner General Land Office.

(4–537.) *Sworn statement under act of June 3, 1878.*

LAND OFFICE, VANCOUVER, W. T.,
August 23rd, 1882.

I, John W. Steffen, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northeast ¼ of section 12, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a naturalized citizen of the United States, and that said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improve-
515 ments whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

JOHN W. STEFFEN.

Sworn to and subscribed before me the 23rd day of August, 1882.
FRED. W. SPARLING, *Register*.

(Endorsed:) Timber lands act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 12, township 9 north, range 1 west. John H. Steffin.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz,
516 Washington Territory, and that said application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Sept. 8th, A. D. 1882, and ending Nov. —th, A. D. 1882, both days included, being ten successive issues of said newspaper.

ENOCH G. ADAMS.

Printer's fee, $10.00.

Subscribed and sworn to before me this 13th day of November, A. D. 1882.

[SEAL.] W. H. CONGERS, *Co. Clk.*

(Endorsed:) Proof of publication of notice in case of John H. Steffen.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," John W. Steffen, of Multnomah County, Oregon, has this day filed in this office his application to purchase the NE. ¼ of section 12, township 9 N., of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, November 10th, 1882.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in
517 this office within sixty (60) days from date hereof.

FRED W. SPARLING,
v3n3a25. *Register.*

(4–227.) *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
November 10th, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 23rd day of August, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of John H. Steffen.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress, approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," John W. Steffen, of Multnomah County, Oregon, has this day filed in this office his application to purchase the NE. ¼ of section 12, township 9 N., of range 1 W., of Willamette meridian. Testimony in the above case will be taken before the register and receiver, at Vancouver, Wash. Ter., on Friday, November 10th, 1882.

Any and all persons having adverse claims to the above-de-
518 scribed lands or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

v3n3a25.

UNITED STATES OF AMERICA,
State of Illinois, county of Henry, ss:

Be it remembered that on the 19th day of February, in the year of our Lord one thousand eight hundred and seventy-two, personally appeared before George W. Pleasant, presiding judge of the circuit court of the county of Henry, and State aforesaid (the same being a court of record, having ans exercising common law jurisdiction, a seal, and clerk), and sitting judicially for the dispatch of business at the court-house, in Cambridge, in the county aforesaid, John H. Steffin, an alien born, free, white, male person, above the age of twenty-one years, and applied to the said court to be admitted to become a naturalized citizen of the United States of America pursuant to the several acts of Congress heretofore passed on that subject, entitled, "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," approved the 14th day of April, 1802, an act entitled "An act in addition to an act entitled 'An act to establish a uniform rule of naturalization,' and to repeal the acts heretofore passed on that subject," approved on the 26th day of March, 1804, an act entitled "An act supplementary to the acts heretofore passed on the subject of a uniform rule of naturalization," passed
519 the 30th day of July, 1813. The act relative to evidence in cases of naturalization passed the 22nd day of March, 1816, and "An act in further addition to 'An act to establish a uniform rule of naturalization,' and to repeal the acts heretofore passed on that subject," passed May 26th, 1824, and the said John H. Steffen, having thereupon produced to the court record testimony showing that he has heretofore reported himself, and filed his declaration of his intention to become a citizen of the United States, according to the provisions of the said several acts of Congress, and the court being satisfied as well from the oath of the said John H. Steffen as from the testimony of Wm. Seible and Wm. Schmidt, who are known to be citizens of the United States, that the said applicant arrived in the United States a minor under the age of twenty-one years, has resided within the limits and under the jurisdiction of the United States for and during the full term of five years, including the three years previous to his arrival at the age of twenty-one years, and one year within the State of Illinois; that during said term of five years he has sustained a good moral character, and appeared to be attached to the principles contained in the Constitution of the United States, and well disposed to the good order, well-being, and happiness of the same; and the said applicant having now here filed his declaration of intention to become a citizen of the United States, according to the provisions of the several acts
520 of Congress heretofore passed on that subject, and he having now here in open court taken and subscribed the oath required by those laws to support the Constitution of the United States, and to renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty whatever, and more particularly all allegiance which he may in anywise owe to the sovereign of Germany, whereof he was heretofore a subject.

It is thereupon considered, ordered, and adjudged by the court that the said John H. Steffen be admitted to all and singular the rights, privileges, and immunities of a naturalized citizen of the United States, and the same be certified by the clerk of this court, under the seal of said court, accordingly.

STATE OF ILLINOIS,
County of Henry, ss:

I, L. H. Patten, clerk of the circuit court of said State and county, do hereby certify the foregoing to be a true and correct copy of the records from said court.

In testimony whereof, the seal of said court is hereto affixed at the clerk's office in Cambridge, 19th day of February, A. D. 1872, and of the Independence of the United States the 96th.

By order of the court.

Attest: (Seal of circuit court.)
[STAMP.]

L. H. PATTON,
Clerk of the Circuit Court of Henry County.

(Endorsed:) Proof of citizenship of John H. Steffen.

521 (4–371.)

(The testimony of two witnesses in this form, taken separately, required in each case.)

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of th' *the* application of John H. Steffen, to purchase the northeast ¼ of section 12, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 15th of August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough, sidling, and stony.

Ques. 8. Are there any salines or indications of deposits of gold,
522 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. Not to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is uneven and broken, and unfit for cultivation, and the land is covered with good timber.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements, of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that
523 each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED. W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, will fully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 12, township 9 north, range 1 west.

524 (4-371.) *Testimony of witness under act of June* 3, 1878.

ROBERT ROCKWELL, being called as witness in support of the application of John H. Steffen to purchase the northeast ¼ of section 12, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, W. T., and reside at Silver Lake, in said county.

What is your occupation?

Ans. 2. Farmer.

Ques. 3 Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 1st of November, 1882; by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is on a side hill, stony and cut up with ravines.

525 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is too rough for farming purposes, and has fine timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

526 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto; and that the same was subscribed and sworn to before me this 10th day of November, 1882.

ROBERT ROCKWELL.

FRED. W. SPARLING,

Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer or person in any case in which the law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully, and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
L. W. BROWN, *Receiver.*

527 (Endorsed): Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 12, township 9 north, range 1 west.

No. 2034. RECEIVER'S OFFICE, AT VANCOUVER, WASH. TER.,
November 10, 1882.

Received from John H. Steffin, of Multnomah County, Oregon, the sum of four hundred dollars and cents; being in full for the northeast quarter section No. twelve, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing $3.75
Fees for allowing entry..... 10.00

Paid.

$400.00. S. W. BROWN.

Across the face of said receipt is the following: Act of June 3, 1878.

No. 2034. LAND OFFICE AT VANCOUVER, W. T.,
Nov. 10*th*, 1882.

It is hereby certified that, in pursuance of the law, John H. Steffin, , Cowlitz County, of Washington Territory, on this day purchased of the register of this office the northeast quarter of section No. twelve (12), in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said John H. Steffin has made payment in full, as required by law.

528 Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said John H. Steffin shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

Across the face of said entry is the following: Act June *June* 3, 1878, canceled by letter "P," Feb'y 13, 1886, $\frac{\text{H. H. J.}}{\text{B. B. S.}}$ Chief Div. "P."

(Endorsed:) Cash entry. Vancouver, Wash. Ter. Sec. 12, T. 9 N., R. 1 W., Nov. 3, '85. Entry held for cancellation. (A. S. McC.) App'd Mch. 3, 1883. Castle. Canceled by letter "P," Feb'y 13, 1886. $\frac{\text{H. H. J.}}{\text{B. B. S.}}$ $\frac{\text{1 No. W.}}{\text{52.}}$

(Endorsed:) Case 1813. Plff's Ex. "E," Nov. 22, 1887. John W. Cochran, stenographer, referee.

529 "P." (4–207.) $\frac{\text{H. H. J.}}{\text{B. B. J.}}$

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2035, in the name of Alvin B. Hastings, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner General Land Office.

(4–537.) *Sworn statement under act of June* 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

I, Alvin B. Hastings, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northeast ¼ of section 18, township 9 north, of range 1 east, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other
530 improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, or coal; that I have made no other

application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

ALVIN B. HASTINGS.

Sworn to and subscribed before me this 23rd day of August, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 18, township 9 north, range 1 east. Alvin B. Hastings.

(4-227.) *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
November 10th, 1882.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 23rd day of August, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Alvin B. Hastings.

531 *Notice of application to purchase timber land.*

LAND OFFICE, VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Alvin B. Hastings of Multnomah County, Oregon, has this day filed in this office his application to purchase the northeast ¼ of sec. 18, township 9 north, of range 1 east, of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, Nov. 10th, 1882.

Any and all persons having adverse claims to the above described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25. FRED. W. SPARLING,
Register.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of The Columbia, a weekly newspaper published at St. Helen, Columbia

County, Oregon, and that said newspaper has a general circulation in said county and State and also in the adjoining county of Cowlitz, Washington Territory, and that said notice of application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days beginning Sept. 8th, 1882, and ending Nov. 10th, A. D. 1882, both days included, being ten successive issues of said newspaper.

532

ENOCH G. ADAMS.

Printers fee, $10.00.

Subscribed and sworn to before me this 13th day of November, A. D. 1882.

[SEAL.] W. H. CONGER,
Co. Clk.

(Endorsed:) Proof of publication of notice in case of Alvin B. Hastings.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that, in compliance with the provision of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington," Alvin B. Hastings, of Multnomah County, Oregon, has this day filed in this office his application to purchase the northeast ¼ of section 18, township 9 north of range 1 east of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, November 10th, 1882. Any and all persons having adverse claims to the above-described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25. FRED W. SPARLING,
Register.

533 (4-371.)

(The testimony of two witnesses, in this form, taken separately, required in each case.)

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Alvin B. Hastings to purchase the northeast ¼ of section 18, township 9 north of range 1 east, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 1st of November, 1882, by passing over the land on foot.

Ques. 5. Is *it* occupied or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The unevenness of the ground, and it is cut up with creeks and stony.

534 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs of mineral deposits are valuable?

Ans. There are no such indications.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The broken condition of the ground renders it unfit for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person, except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

535 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testified falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare,

depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING,
Register.
S. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T., Sec. 18, T. 9 N., R. 1 east.

536 4–371.)

(The testimony of two witnesses, in this form, taken separately, required in each case.)

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Alvin B. Hastings to purchase the northeast ¼ of section 18, township 9 north, of range 1 east, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 15th of August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with streams, broken, rocky, and sidling.

537 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. No, sir.

538 Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the unevenness of the surface, which renders it unfit for cultivation, and the land has good timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED W. SPARLING,
Register.

539 NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oaths states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S., 1750.)

Approved:

FRED W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 18, township 9 north, range 1 east.

540 No. 2035.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
Nov. 10th, 1872.

Received from Alvin B. Hastings, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the northeast quarter of section No. eighteen, in township No. nine north of range No. one east, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing $3.15
Fees for allowing entry..... .... 10.00

Paid.
$400.00.

S. W. BROWN,
Receiver.

(Act June 3, 1878.)

No. 2035.

LAND OFFICE AT VANCOUVER, W. T.,
Nov. 10th, 1882.

It is hereby certified that in pursuance of law, Alvin B. Hastings, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the northeast quarter of section No. eighteen (18) in township No. 9 north of range No. 1 east, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Alvin B. Hastings has made payment in full, as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said Alvin B. Hastings shall be entitled to receive a patent for the above described.

FRED W. SPARLING,
Register.

(Across the face of said entry is the following: Act June 3, 1878. Canceled by letter "P." Feb. 13, 1886. H. H. J.–B. B. J. Chief Div. "P.")

541 (Endorsed:) Cash entry. Vancouver, Wash. Ter. Sec. 18, T. 9 N., R. 1 E., T. L. App'd Mch. 3, 1883. Castle. Nov. 3, '85. Entry held for cancellation. (A. S. McC.) Cancelled by letter "P." Feby. 13, 1886. H. H. J.–B. B. J.)

(Endorsed:) Case 1813. Plff's Ex. "F." John W. Cochran, stenographer, referee.

542 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certifi-

cate No. 2036, in the name of Charles C. Carnell, and accompanying papers are true and literal exemplifications of the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL] WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

I, Charles C. Carnell, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the east ½ of the northwest quarter and lots 1 & 2 of section 18 township 9 north of range 1 east, do solemnly swear that I am above the age of twenty-one years, and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements what-
543 ever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

CHARLES C. CARNELL.

Sworn to and subscribed before me this 23rd day of August, 1882.
FRED W. SPARLING,
Register.

(Endorsed:) Sworn statement. Land office at Vancouver, Wash. Ter. Section 18, township 9 north, range 1 east. Charles C. Carnell.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
November 10th, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereby attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 23rd day of August, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Charles C. Carnell.

544 *Notice of application to purchase timber land.*

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Charles C. Carnell, of Multnomah County, Oregon, has this day filed in this office his application to purchase the east half of the NW. ¼ and lots 1 and 2 of section 18, township 9, north of range 1 east of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver, at Vancouver, Wash. Ter., on Friday, November 10th, 1882.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25. FRED. W. SPARLING,
Register.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbia, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Wash-
545 ington Territory, and that said notice of application to purchase timber land, a private copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Sept. 8th, A. D. 1882, and ending November 10th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printer's fee $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 13th day of November, A. D. 1882.

[SEAL.] W. H. CONGERS,
Co. Clk.

(Endorsed:) Proof of publication of notice in case of Charles C. Carnell.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Charles C. Cornell, of Multnomah County, Oregon, has this day filed in this office his application to purchase the east half of northwest ¼ and lots 1 and 2 of section 18, township 9, north of range 1 east of the Willamette meridian. Testimony in the above case will be

taken before the register and receiver, at Vancouver, Wash. Ter., on Friday, November 10th, 1882. Any and all persons having adverse
546 claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25. FRED. W. SPARLING,
Register.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Charles C. Carnell to purchase the east ½ of the northwest ¼, and lots 1 and 2, of section 18, township 9 north of range 1 east, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county?

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made.

Ans. On the 1st of November, 1882, by walking over the land.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

547 Ans. The ground is quite uneven and rocky.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. No, sir.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land has a fine body of timber on it and the surface of the land is so uneven that it can not be cultivated with profit. The land is quite stony also.

Ques. 11. Do you know whether the applicane has, directly or indirectly, made any agreement or contract in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

548 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court in the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING,
Register.

S. W. BROWN,
Receiver.

549 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T., section 18, township 9 north, range 1 east.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Charles C. Carnell, to purchase the east ½ of northwest ¼, and lots 1 & 2, of section 18, township 9 north, of range 1 east, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Quest. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivision?

Ans. I am.

Ques. 4. When and what *metter* was such inspection made?

Answer. About the 15th of August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Quest. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

550 Ans. The unevenness of the ground, being cut up with streams, and rocky.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable?

Ans. Not that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes, than for the timber or stone thereon, or is it chiefly valuable foe timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is too broken for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber oe stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

551 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of Novemner, 1882.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which the law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oaths states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him os reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

S. W. BROWN,
Receiver.

552 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T., section 18, township 9 north, range 1 east.

No. 2036. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
November 10th, 1872.

Received from Charles C. Carnell, of Multnomah County, Oregon, the sum of four hundred and eighteen dollars and seventy-seven cents, being in full for the east half of the northwest quarter and lots one and two of section No. eighteen, in township No. nine north, of range No. one east, Will. Mer., containing one hundred and sixty-seven acres and fifty one-hundredths, at $2.50 per acre.

Fees for reducing the testimony to writing	$3.15
Fees for allowing entry	10.00

Paid.
$418.77.

S. W. BROWN,
Receiver.

(Act June 3, 1888.)

No. 2036. LAND OFFICE AT VANCOUVER, W. T.,
Nov. 10th, 1882.

It is hereby certified that in pursuance of law, Charles C. Carnell, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the east half of northwest quarter and lots Nos. one and two of section No. eighteen (18) in township No. 9 north, of range No. 1 east, Will. Mer., containing one hundred and sixty-seven and $\frac{51}{100}$ ($167\frac{51}{100}$) acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred and eighteen dollars and 77 cents, for which the said
553 Charles C. Carnell has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said Charles C. Carnell shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

(Across the face of said cash entry is the following: Act June 3, 1878. Canceled by letter "P." Feb'y 13, 1886. H. H. J. B. B. J. Chief Div. "P.")

(Endorsed:) No. 2036. Cash entry. Vancouver, Wash. Ter., sec. 18, T. 9 N., R. 1 E. Nov. 3, '85. Entry held for cancellation. (A. S. McC.) Appd. Mch. 3, 1883. Castle. Canceled by letter "P." Feb'y 13, 1886. H. H. J. B. B. J. 1 N. & E. 88.

(Endorsed:) Case 1813. Plffs. Ex. "G." Nov. 22, 1887. John W. Cochran, stenographer, referee.

554 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2037, in the name of Lee Hoffman, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Washington Territory, and that said notice of application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Sept. 8th, A. D. 1882, and ending Nov. 10th, A. D. 1882, both days
555 included being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 13th day of November, A. D. 1882.

[SEAL.] W. H. CONGERS, *Co. Clk.*

(Endorsed:) Proof of publication of notice in case of Lee Hoffman.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23*rd*, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Lee Hoffman, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast ¼ of section 18, township 9, north of range 1 east, of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, November 10th, 1882. Any and all persons having adverse claims to the above described land or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

v3n3a25.

556 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
November 10*th*, 1882.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 23rd day of August, 1882.

FRED. W. SPARLING, *Register.*

(Endorsed :) Register's certificate as to posting of notice in case of Lee Hoffman.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23*rd*, 1882.

Notice is hereby given tha' in compliance with the provisions of the act of Congress, approved June 3rd, 1878, entitled, "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Lee Hoffman, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast ¼ of section 18, township 9 north, of range 1 east, of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, November 10th, 1882. Any and all persons having adverse claims to the above-described land or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25. FRED. W. SPARLING, *Register.*

557 *Testimony of witness under act of June 3, 1878.*

GEORGE F. WHITE, being called as a witness in support of the application of Lee Hoffman, to purchase the southeast ¼ of section 18, township 9 north, of range 1 east, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions.

Ans. I am.

Ques. 4. When and what manner was such inspection made?

Ans. About the 15th of August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The land is very uneven and cut up with streams, and rocky.

Ques. 8. Are there any salines, or indications of deposits of gold,
558 silver, connabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. There are none.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is so broken that it cannot be cultivated. It is also quite rocky; the land is covered with a good body of timber.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him
559 before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED. W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved: FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T.; sec. 18, T. 9 N., R. 1 east.

560 *Sworn statement under act of June 3, 1878.*

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

I, Lee Hoffman, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southeast ¼ of section 18, township 9 north, of range 1 east, do solemnly swear that I am above the age of twenty-one years, and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposits of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith, to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

LEE HOFFMAN.

Sworn to and subscribed before me this 23rd day of August, 1882.
FRED W. SPARLING, *Register.*

(Endorsed:) Timber lands, act June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 18, T. 9 N., R. 1. E. Lee Hoffman.

561 *Testimony of witness under act of June 3, 1878.*

ROBERT ROCKWELL, being called as a witness in support of the application of Lee Hoffman to purchase the southeast ¼ of section 18, township 9 north, of range 1 east, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the first of November, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The ground is rocky and cut up with creeks, and quite broken.

562 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the spring or mineral deposits are valuable.

Ans. Not that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is too broken for cultivation, and there is a good body of timber on it.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part for the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him
563 before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

FRED W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be punished by a fine of not more than two thousand dollars and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands, act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., sec. 18, township 9 north, range 1 east.

564 No. 2037.] RECEIVER'S OFFICE AT VANCOUVER, WASH. TER., *November 10th*, 1882.

Received from Lee Hoffman, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southeast quarter of section No. eighteen, in township No. nine north, of range No. one east, Will. mer., containing one hundred and sixty acres and hundredt's, at $2.50 per acre.

Fees for reducing testimony to writing $3.15
Fees for allowing entry 10.00

Paid.
$400.00

S. W. BROWN,
Receiver.

No. 2037.] LAND OFFICE AT VANCOUVER, W. T., *November 10th*, 1882.

It is hereby certified that in pursuance of the law Lee Hoffman, Cowlitz County, of Washington Ter., on this day purchased of the register of this

office the southeast ¼ of section No. 18 (eighteen) in township No. 9 north, of range No. one east, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Lee Hoffman has made payment in full as required by law.

Now, therefore, be is known that on presentation of this certificate to the Commissioner of the General Land Office the said Lee Hoffman shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

565 (Across the face of said cash entry is the following: Act June 3, 1878.)

(Endorsed:) No. 2037. Cash entry. Vancouver, Wash. Ter., section 18, T. 9 N., R. 1 E. T. L. App'd Mch. 3, 1883. Ex. Castle. Pat. May 5th, 1883, rec. vol. 4, page 407, Nov. 28th, '85. Suit recommended to set aside patent. W. W. P. 1 n. & e., '88.

(Endorsed:) Case 1813. Plffs. Ex. H. Nov. 22, 1887. John W. Cochran, stenographer, referee.

566 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2045, in the name of Edwin R. Budd, and accompanying paper, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed me name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

I, Edward R. Budd, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the SW. ¼ of SE. ¼, SE. ¼ of SW. ¼, and lot 7 of section 6, township 9 north, of range 1 east, do solemnly swear that I am above the age of twenty-one years and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is unhabited; that it contains no mining or other improvements whatever nor,
567 as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act;

that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

EDWARD R. BUDD.

Sworn to and subscribed before me this 29th day of September, 1882.

FRED. W. STARLING,
Register.

(Endorsed:) Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 6, township 9 north, range 1 east. Edward R. Budd.

STATE OF OREGON, *County of Columbia ss:*

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published in the town of St. Helen, Columbia County, Oregon, and has a general circulation in said county and States, and also in the adjoining county of Cowlitz, Washington Territory, and that said notice of application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning
568 Oct. 6th, A. D. 1882, and ending Dec. 8th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printers' fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 15th day of December, A. D. 1828.

[SEAL.] W. H. CONGERS,
Co. Clk.

(Endorsed:) Proof of publication. Notice in the case of Edward R. Budd.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled *Q* "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Edwin R. Budd, of Multonmah County, Oregon, has this day filed in this office his application to purchase SW. ¼ of SE. ¼, SE. ¼ of SW. ¼, and lot 7 of section 6, township 9 north, of range 1 east, of the Willamette meridian. Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Monday, December 11, 1882. Any and all persons having adverse claims to the above-described land, or any portion thereof, are hereby requested to file their claims in this office within sixty (60) days from date hereof.

v 3 n 906.

FRED. W. SPARLING,
Register.

569 *Certificate as posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
December 11th, 1882.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 29th day of September, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Edwin R. Budd.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Edwin R. Budd, of Multnomah County, Oregon, has this day filed in this office his application to purchase SW. ¼ of SE. ¼, SE. ¼ of SW. ¼, and lot 7 of section 6, township 9 north, of range 1 E., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Monday, December 11th, 1882. Any and all persons having adverse claims to the above-described land, or any portion thereof, are hereby requested to file their claims in this
570 office within sixty (60) days from date hereof.

v e n 906. FRED. W. SPARLING,
Register.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE being called as a witness in support of the application of Edwin R. Budd to purchase the SW. ¼ of SE. ¼, SE. ¼ of SW. ¼, and lot 7 of section 6, township 9 north, of range 1 east, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above-described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In September, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

571 Ans. It is rocky and rough.

Ques. 8. Are there any salines, *of* indi*ac*tions of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is rough and broken and unfit for cultivation, and there is a good body of timber *of* the land.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

572 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 11th day of December, 1882.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify, truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not

more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Timber lands act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 6, township 9 north, range 1 east.)

573 *Testimony of witness under act of June 3, 1878.*

ROBERT ROCKWELL, being called as a witness in support of the application of Edwin R. Budd to purchase the SW. ¼ of SE. ¼—SE. ¼ of SW. ¼ and lot 7 of section 6, township 9 north, of range 1 east, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of December, 1882, by going over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land?

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfot for cultivation?

Ans. It is stony and very broken.

Ques. 8. Are there any salines or indications of deposits of gold,
574 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. Not that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is too stony and rough for cultivation, and there is a good body of timber on the land.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not,

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him
575 before he signed his name thereto, and that the same was subscribed and sworn to before me this 11th day of December, 1882.

FRED. W. SPARLING,
Reg'st'r.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes, and material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING,
Register.
S. W. BROWN, *Receiver.*

(Endorsed:) Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 6, township 9 north, range 1 east.

576 No. 2045.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
December 11th, 1882.

Received from Edwin R. Budd, *of* Multnomah County, Oregon, the sum of three hundred and ten dollars ($310) and seventy-five (75) cents,

being in full for the southwest quarter of the southeast quarter, the southeast quarter of the southwest quarter, and lot No. seven (7) of section No. 6, in township No. nine north, of range No. one east, Will. mer., containing one hundred and twenty-four acres and thirty-hundredths, at $2.50 per acre.

Fees for reducing testimony to writing..... .... $3.15
Fees for allowing entry..... .... 10.00
Paid.
$310.75.

S. W. BROWN, *Receiver.*

No. 2045. LAND OFFICE AT VANCOUVER, W. T.,
Dec. 11th, 1882.

It is hereby certified that, in pursuance of law, Edwin R. Budd, Cowlitz County, of Washington Ter., on this day purchased of the register of this office the southwest ¼ of southeast ¼, the southeast ¼ of southwest ¼, and lot No. 7 of section No. 6, in township No. 9 north, of range 1 east, Will mer., containing one hundred and twenty-four and $\frac{30}{100}$ acres, at the rate of two dollars and fifty cents per acre, amounting to three hundred and ten dollars and 75 cents, for which the said Edwin R. Budd has made payment in full, as required by law.

Now, therefore, be it known that on presentation of certificate to the Commissioner of the General Land Office the said Edwin R. Budd
577 shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING, *Register.*

(Act June 3, 1878.)

(Endorsed:) No. 2045. Cash entry. Vancouver, Wash. Ter., sec. 6, T. 9 N., R. 1 E., T. L. App'd March 10, 1883. Ex. Castle. Pat. May 5th, 1883. Rec. vol. 4, page 410. 1 N. & E. /84. May 12/86. Suit recommended to set aside patent. H. H. J./"P."

(Endorsed:) Case 1813. Plfs. Ex. "I." Nov. 22, 1887. John W. Cochran, stenographer, referee.

578 "P." H. E. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2046, in the name of Henry W. Rogers, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

I, George W. Rogers, of Cowlitz County, Wash. Ter., desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the west ½ of the northeast ¼ and east ½ of northwest ¼ of section 22, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

579

HENRY W. ROGERS.

Sworn to and subscribed before me this 29th day of September, 1882.
FRED. W. SPARLING, *Register.*

(Endorsed:) Sworn statement. Land office at Vancouver, Wash. Ter., sec. 22, township 9 north, range 1 west. Henry W. Rogers.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published in the town of St. Helen, Columbia Co., Oregon, and has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Oct. 6th, A. D. 1882, both days included, being ten successive issues of said newspaper.

580

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 15th day of December, A. D. 1882.

[SEAL.] W. H. CONGERS, *Co. Clk.*

(Endorsed:) Proof of publication of notice in case of Henry W. Rogers.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that, in compliance with the provisions of the act of Congress, approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory." Henry W. Rogers, of Cowlitz County, Washington Ter., has this day filed in this office his application to purchase the west ½ of the northeast ¼ and east ½ of north W ¼ of section 22, township 9 north of range 1 west of the Willamette meridian.

Testimony in the above case will be taken be the register and receiver at Vancouver, W. T., on Wednesday, December 13th, 1882.

Any and all persons claiming adversely to said described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3906 FRED W. SPARLING, *Register*.

581 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
December 13th, 1882.

I, Fred W. Sparling, register, *bo* hereby certify that a notice, a printed copy of which is hereby attached, was by me posted in a conspicuous place in my office for a period of thirty days, I having first posted said notice on the 29th day of September, 1882.

FRED W. SPARLING, *Register*.

(Endorsed:) Register's certificate as to posting of notice in case of Henry W. Rogers.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of Oregon, California, Nevada, and in Washington Territory," Henry W. Rogers, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase W. ½ of northeast ¼ and east ½ of north W. ¼ of section 22, township 9 north of range 1 W. of the Willamette meridian. Testimony in the above case will be taken be the register and receiver at Vancouver, W. T., on Wednesday, December 13th, 1882.

Any and all persons claiming adversely to said described lands, or any portion thereof, are hereby required to file their claims in this office
582 within sixty (60) days from date hereof.

v3n906 FRED W. SPARLING, *Register*.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Henry W. Rogers to purchase the W. ½ of northeast ¼ and east ½ of northwest ¼ of section 22, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In September, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rocky and broken.

583 Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. Not that I am aware of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for the timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is very broken and stony, on a side hill, and unfit for cultivation. The land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GERIGE F. WHITE.

I hereby certify that witness is a person of respectability; that
584 each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 13th day of December, 1882.

S. W. BROWN,
Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 22, township 9 north, range 1 west.

585 *Testimony of witness under act of June 3, 1878.*

ROBERT ROCKWELL, being called as a witness in support of the application of Henry W. Rogers, to purchase the west ½ of northeast ¼ and east half of northwest ¼ of section 22, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described, by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 1st day of December, 1882, by going over the land on foot.

Ques. 5. Is it occupied, *or* are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is *it* fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfot for cultivation?

Ans. It is on a steep side hill, and stony and broken.

586 Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for the timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is on a steep side hill, and too rough and broken for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

587 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 13th day of December, 1882.

S. W. BROWN,
Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to

such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S., 1750.)

Approved.

FRED W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Act of June 3, 1878. Testimont of witness. Land office at Vancouver, W. T., sec. 22, T. 9 north, range 1 west.

588 No. 2046.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
December 13th, 1872.

Received from Henry W. Rogers, of Cowlitz County, Washington Territory, the sum of four hundred dollars and cents, being in full for the W. ½ of the NE. ¼ and the E. ½ of the NW. ¼ of section No. 22, in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing $3.15
Fees for allowing entry..... 10.00

Paid.
$400.00.

S. W. BROWN,
Receiver.

(Act June 3, 1878.)

No. 2046. LAND OFFICE AT VANCOUVER, W. T.,
Dec. 13th, 1882.

It is hereby certified that, in pursuance of law, Henry W. Rogers, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the west half of the northeast quarter, and east half of northwest quarter of section No. twenty-two (22), in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Henry W. Rogers has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said Henry W. Rogers shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

589 (Across the face of said cash entry is the following: Act of June 3, 1878.)

(Endorsed:) No. 2046. Cash entry. Vancouver, Wash. Ter., sec. 22, T. 9 N., R. 1 W. App'd March 10th, 1883. L. T. Castle. Susp. by order of Div. "A," Nov. 3, '85. Entry held for cancellation. (A. S. McC.) Hearing ordered April 2, '86. H. H. J. 1 N., 7 W., 56.

(Endorsed:) Case 1813. Plfs. Ex. "J." Nov. 22, 1887. John W. Cochran, stenographer, referee.

590 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2047 in the name of Charles H. Harmans and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

I, Charles H. Harmans, of Cowlitz County, Wash. Ter., desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory" for the purchase of the east ½ of northeast ¼ and east half of southeast quarter of section 22, township 9 north, of range 1 west, do solemnly swear that I am above the age of twenty-one years and have declared my intention to become a citizen of the United States; that the said land is unfit for cultivation, and valuable
591 chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, cinnabar, silver, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person, except myself.

CHARLES H. HARMAN.

Sworn to and subscribed before me this 29th day of September, 1882.
FRED. W. SPARLING,
Register.

(Endorsed:) Sworn statement. Land office at Vancouver, Wash. Ter., sec. 22, T. 9 north, range 1 west. Charles H. Harmans.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbia, a weekly newspaper published in the town of St. Helen, Columbia County, Oregon, and has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Washington Territory, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affida-
592 vit, has been published in said newspaper for the period of sixty days, beginning Oct. 6th, A. D. 1882, and ending Dec. 8th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 15th day of Dec., A. D. 1882.
[SEAL.] W. H. CONGERS, *Co. Clk.*

(Endorsed:) Proof of publication of notice in case of Charles H. Harmans.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Charles H. Harmans, of Cowletz County, Wash. Ter., has this day filed in this office his application to purchase the east ½ of northeast ¼ and east ½ of southeast ¼ of section 32, township 9 north of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Wednesday, December 13th, 1882. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v. 3, n. 906. FRED W. SPARLING,
Register.

593 *Notice of application to purchase timber lands.*

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands, in the States of California, Oregon, Nevada, and in Washington Territory," Charles H. Harmans, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the east ½ of northeast ¼, and east ½ of southeast ¼ of section 22, township 9, north of range 1, west of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Wednesday, December 13th, 1882. Any

and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v. 3, n. 906. FRED W. SPARLING,
Register.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
December 13th, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 29th day of September, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Charles H. Harmons.

594 *Declaration of intention. Vol.* 23. *No.* 388.

UNITED STATES OF AMERICA,
State of California:

District court of the twenty-third judicial district of the State of California, in and for the city and county of San Francisco. I, Charles H. Harmans (Finland) do declare on oath that it is bona fide my intention to become a citizen of the United States of America, and to renounce forever all allegiance and fidelity to all and any foreign prince, potentate, state, and sovereignty whatever, and particularly to the Czar of Russia.

(Signed.) CHARLES H. HARMANS.

Subscribed and sworn to before me this 8th day of November, 1878.

JOHN H. MOTT,
Deputy County Clerk.

Office of the clerk of the district court of the 23rd judicial district of the State of California, in and for the city and county of San Francisco, *ss:*

I, Thomas H. Reynolds, clerk of the district court of the 23rd judicial district of the State of California, in and for the city and county of San Francisco, said court being a court of record, having common law jurisdiction and a clerk and seal, do certify that the above is a true copy of the original declaration of intention of Charles H. Harmans (Finland), on his application to become a citizen of the United States, remaining in my office, upon the records of said court, and of the whole thereof, and that the same has been compared with the original record.

595 In testimony whereof I have hereunto set my hand and affixed the seal of said court this eighth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, in the year of our Independence the one hundred 3rd.

[SEAL OF DISTRICT COURT.] THOMAS H. REYNOLDS,
Clerk.

By JOHN H. MOTT,
Deputy Clerk.

On margin of said copy is the following, to wit: "U. S. Land Office, Vancouver, W. T., Sept. 29th, 1882. I hereby certify that this is a true copy of the original. Fred W. Sparling, register."

(Endorsed:) Copy of declaration of intention of Charles H. Harmans.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Charles H. Harmans to purchase the east ½ of northeast ¼ and east half of southeast ¼ of section 22, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by
596 personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 3. When and in what manner was such inspection made?

Ans. About the 1st of December, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is on the side of a hill, and is rough and broken.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for the timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The uneven condition of the ground, and it being stony, is unfit for cultivation, and the land has a good body of timber on it.

597 Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto; and that the same was subscribed and sworn to before me this 13th day of December, 1882.

S. W. BROWN,
Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if is be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United
598 States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully, and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed: Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 22, township 9 north, range 1, west.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Charles H. Harmans, to purchase the east ½ of northeast ¼ and east ½ of southeast ¼ of section 22, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

599 Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In September, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony and steep and broken.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is stony and broken, on a steep hillside, and has a good body of timber on it.

600 Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber, or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 13th day *od* December, 1882.

S. W. BROWN,
Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

601 SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard

labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 22, township 9 north, range 1 west.

(No. 2047.)

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
December 13th, 1882.

Received from Charles H. Harmans, of Cowlitz County, Washington Territory, the sum of four hundred dollars and cents, being in full for the east ½ of the northeast ¼ and the east ½ of the southeast ¼ of sec. No. twenty-two, in township No. nine north of range No. one west, Will. mer., containing one hundred and sixty acres and hundreths, at $2.50 per acre.

602

Fees for reducing testimony to writing..... $3.00
Fees for allowing entry 10.00

Paid.

S. W. BROWN, *Receiver.*

$400.00.

(No. 2047.) LAND OFFICE AT VANCOUVER, W. T.,
Dec. 13th, 1882.

It is hereby certified that in pursuance of law Charles H. Harmans, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the east half of northeast quarter and east half of southeast quarter of section No. 22 (twenty-two) in township No. 9 north of range No. 1 west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Charles H. Harmans has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said Charles H. Harmans shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

Across the face of said cash entry is the following:
Canceled by letter P, Feby. 13, 1886. H. H. J., chief div. P.
B. B. S.

(Endorsed:) No. 2047. Cash entry. Vancouver, Wash. Ter. Sec. 22. T. 9 N., R. 1 W. App'd March 10, 1883. T. L. Castle. Nov. 3, '85, Entry held for cancellation. (A. S. McC.) Canceled by letter P, Feb'y 13, 1886. H. H. J. 1 N. & W., '56.
B. B. S.

(Endorsed:) Case 1813. Plfs.' Ex. K. Nov. 22, 1887. John W. Cochran, stenographer, referee.

603 "P."

H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2048, in the name of John Mangs, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement, under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

I, John Mangs, of Cowlitz County, Washington Territory, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the east ½ of northeast ¼, southwest ¼ of northeast ¼, and northeast ¼ of southeast ¼ of section 14, township 9 north, of range 1 west, do solemnly swear that I am above the age of 21 years, and have declared my intention to become a citizen of the United States; that the said land is unfit for
604 cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

his
JOHN x MANGS.
mark.

Witness to mark:
H. D. HUNT.

Sworn to and subscribed before me this 29th day of September, 1882.
FRED. W. SPARLING,
Register.

(Endorsed:) Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 8, township 9 north, range 1 west. John Mangs.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published in the town of St. Helen, Columbia County, Oregon, and has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Washing-
605 ton Territory, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Oct. 6th, A. D. 1882, and ending Dec. 8th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 15th day of December, A. D. 1882.

[SEAL.] W. H. CONGERS,
Co. Clk.

(Endorsed:) Proof of publication of notice in case of John Mangs.

Notice of application to purchase timber land.

LAND OFFICE, VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," John Mangs, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the east ½ of the northeast ¼, the SW. ¼ of the NE. ¼, NE. *NE.* ¼ of SE. ¼ of sec. 14, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Wednesday, December 13th, 1882. Any and all persons having adverse claims to the described land or any
606 portion thereof are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

v3n906.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
December 13th, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 29th day of September, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of John Mangs.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," John Mangs, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the east ½ of the northeast ¼, the SW. ¼ of the NE. ¼, NE. ¼ of SE. ¼ of section 14, township 9 north, of range 1 W. of the Willamette meridian.

607 Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Wednesday, December 13th, 1882.

Any and all persons having adverse claims to the described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

v 3, n 3, 906.

UNITED STATES OF AMERICA,
State of Oregon, ss:

I, John Mangs, do declare on oath that it is bona fide my intention to become a citizen of the United States of America, and to renounce forever all allegiance and fidelity to all and any foreign prince, potentate, state, and sovereignty whatsoever, and particularly to the Czar of Russia, of whom I am at present a subject.

[SEAL OF CIRCUIT COURT.] JOHN his x mark MANGS.

Subscribed and sworn to before me this 22nd day of March, 1882.

A. E. BOTHWICK,
Clerk of the Circuit Court, Multnomah County, Oregon.
By , *Deputy.*

STATE OF OREGON,
County of Multnomah, ss:

608 I, A. E. Borthwick, county clerk and and ex-officio clerk of the circuit court of the State of Oregon, for the county of Multnomah, do hereby certify that the foregoing copy of declaration of intention to become a citizen of the United States has been by me compared by the original, and that it is a correct copy of the whole of such original declaration of intention to become a citizen of the United States, as the same appears on file at my office and in my custody.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court this 22nd day of March, 1882.

[SEAL OF CIRCUIT COURT.] A. E. BORTHWICK, *Clerk.*
By , *Deputy.*

(On margin of said copy is the following, to wit: I hereby certify that this is a true copy of the original. Fred. W. Sparling, register.)

(Endorsed:) Copy of declaration of intention of John Mangs.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of John Mangs, to purchase the east half of NE. ¼ SW. ¼ of NE. ¼ and NE. ¼ of SE. ¼ of section 14, township 9, north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

609 Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In September, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with streams, is rough and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knolwedge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

610 Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so broken and stony that it is unfit for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 13th day of December, 1882. S. W. Brown, receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

611 TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S 1750.)

Approved:

FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T. Section 14, township 9 north, range 1 west.

Testimony of witness, under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of John Mangs to purchase the east ½ of the northeast ¼ and southwest ¼ of northeast ¼, and northeast ¼ of southeast ¼ of section 14, township 9 north, of range, 1 west, testifies as follows:

612 Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your ossupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of December, 1882, by going over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony, rough, and uneven.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, or copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or other pur-
613 poses than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is too stony and uneven for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 13th day of December, 1882.

S. W. BROWN, *Receiver.*

NOTE.—The officer before whom the testimony is taken should
614 call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Act June 3, 1878. Testimony of witness. Land office at Vancouver, W. T. Sec. 14, T. 9 north, range 1 west.

No. 2048. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
December 13, 1872.

Received from John Mangs, of Cowlitz Co., Wash. Ter., the sum of four hundred dollars and cents, being in full for the east ½ of
615 the northeast ¼, the southwest ¼ of the northeast ¼ and the northeast ¼ of the southeast ¼ of section No. 14, in Township No. 9 north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing $3. 15
Fees for allowing entry..... .... 10. 00
Paid.
$400.00.

S. W. BROWN, *Receiver.*

(Act June 3, 1878.)

No. 2048. LAND OFFICE AT VANCOUVER, W. T.,
Dec. 13th, 1882.

It is hereby certified that in pursuance of law John Mangs, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the east ½ of northeast ¼, the southwest ¼ of northeast ¼, and NE. ¼ of SE. ¼ of section No. fourteen (14), in township No. 9 north, of range No. 1 west, Will. Mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said John Mangs has made payment in full, as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said John Mangs shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

Across the face of said cash entry is the following: Act June 3, 1878. Canceled by letter "P," Feb'y 13, 1886. H. H. J. B. B. Simmes, chief div. "P."

616 (Endorsed:) No. 2048. Cash entry. Vancouver, Wash. Ter. Sec. 14, T. 9 N., R. 1 W., T. L. App'd March 10, 1883. Castle. Nov. 3, '85. Entry held for cancellation. (A. S. McC.) Canceled by letter "P," Feb'y 13, 1886. H. H. J. B. B. S. $\frac{1\text{ N. \& W.}}{53.}$

(Endorsed:) Case 1813. Plfs. Ex. "L," Nov. 22, 1887. John W. Cochran, stenographer, referee.

617 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2049, in the name of George M. Rogers, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

I, George M. Rogers, of Cowlitz County, Washington Ter., desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the west ½ of northwest ¼ and west ½ of southwest ¼ of section 22, township 9 north, of range 1 west, do solemnly swear that I am above the age of 21 years and a nature-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber;
618 that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

GEORGE M. ROGERS.

Sworn to and subscribed before me this 29th day of September, 1882.
FRED. W. SPARLING, *Register.*

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 22, township 9 north, range 1 west. George M. Rogers.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published in the town of St.

Helens, Columbia Co., Oregon, and has a general circulation in said county and State, and also in the adjoining county of Cowlitz,
619 Washington Territory, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Oct. 6th, A. D. 1882, and ending Dec. 8th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 15th day of Dec., A. D. 1882.

[SEAL.] W. H. CONGERS,
Co. Clk.

(Endorsed:) Proof of publication of notice in case of George M. Rogers.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
September 29, 1882.

Notice is hereby given, that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled, "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," George M. Rogers, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the W. ½ of NW. ¼ and W. ½ of SW. ¼ of section twenty-second, township 9 north, of range 1 W., of the Will. mer.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Thursday, December 14th, 1882. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this
620 office within sixty (60) days from date hereof.
v3n 3 9o9.

FRED. W. SPARLING,
Register.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
December 14, 1882.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 29th day of September, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of George M. Rogers.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provsions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," George M. Rogers, of Cowlits County, Washington Territory, has this day filed in this office his application to purchase the W. ½ of the NW. ¼ and W. ½ of SW. ¼ of section twenty-second, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register
621 and receiver at Vancouver, W. T., on Thursday December 14th, 1882. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

v3n39o9.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of George M. Rogers to purchase the west ½ of northwest ¼ and west ½ of southwest ¼ of section 22, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 23rd day of September, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by or do not belong to the said applicant?

622 Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is a steep side hill and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. Not to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so steep and stony that it is unfit for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or
623 in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, that the same was subscribed and sworn to before me this 14th day of December, 1882.

S. W. BROWN,
Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the *pru*pose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimon*t*, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard
624 labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING,
Register.

S. W. BROWN,
Receiver.

Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 22, township 9, north range 1 west.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of George M. Rodgers, to purchase the west ½ of northwest ¼ and west ½ of southwest ¼ of section 22, township 9, north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivision?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of December, 1882, by going over the land
625 on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony and rough and located on a side hill.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so uneven and stony that it is unfit for cultivation and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part
626 to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 14th day of December, 1882.

S. W. BROWN,
Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to
627 such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING,
Register.
S. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 22, township 9 north, range 1 west.

No. 2049. RECEIVER'S OFFICE, VANCOUVER, WASH. TER.,
December 14th, 1872.

Received from George M. Rogers, of Cowlitz County, Washington Territory, the sum of four hundred dollars and cents; being in full for the west ½ of the northwest ¼ and the west ½ of the southwest ¼, of section No. twenty-two, in township No. none north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing..... $3.15
Fees for allowing entry..... 10.00

Paid.

S. W. BROWN,
Receiver.

$400.00.

(Act June 3, 1878.)

628 No. 2049. LAND OFFICE AT VANCOUVER, W. T.,
Dec. 14*th*, 1882.

It is hereby certified that in pursuance of law George M. Rogers, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office, the west half of northwest quarter, and west half of southwest quarter of section No. twenty-two (22) in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said George M. Rogers has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, the said George M. Rogers shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

(Across the face of said cash entry is the following: Act June 3, 1878. Cancelled by letter "P," Feb'y 13, 1886. H. H. J.–B. B. Simms. Chief Div. "P."

(Endorsed:) No. 2049. Cash entry. Vancouver, Wash. Ter. Sec. 22, T. 9 N., R. 1 W., T. L. Appd. March 10, 1883, Castle. See letter "P." to R. & R, Nov. 5, '85. Entry held for cancellation. (A. S.McC.) Cancelled by letter "P." Feb'y 13, 1886. H. H. J.–B. B. S.

1 n & W.
56.

(Endorsed:) Case 1813. Plffs. Ex. "M," Nov. 22, 1887. John W. Cochran, stenographer. Referee.

629 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2050, in the name of Geo. W. Taylor, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement, under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
September 29*th*, 1882.

I, George W. Taylor, of Cowlitz Co., W. T., desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled

"An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southwest ¼ of northeast ¼ west ½ of southeast ¼ and southeast ¼ of southeast ¼ of section 8, township 9 north, of range 1 west, do solemnly swear that I am above the age of 21 years, and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other
630 improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

GEORGE W. TAYLOR.

Sworn to and subscribed before me this 29th day of September, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Sworn statement. Land Office at Vancouver, Wash. Ter., sec. 8, township 9 north, range 1 west. George W. Taylor.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am publisher of the Columbia, a weekly newspaper published at St. Helen, Columbia Co., Oregon, and has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber land, a printed
631 copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning Oct. 6th, A. D. 1882, and ending Dec. 8th, A. D. 1882, both days included, being ten successive issues of said newspaper.

ENOCH G. ADAMS.

Printer's fee, $10.00.

Subscribed and sworn to before me this 15th day of October, A. D. 1882.

[SEAL.] W. H. CONGERS,
Co. Clk.

(Endorsed:) Proof of publication of notice of George W. Taylor.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of

timber lands in the States of California, Oregon, Nevada, and in Washington Territory," George W. Taylor, of Cowlitz County, Wash. Ter., has this day filed in this office his application to purchase the SW. ¼ of NE. ¼, the W. ½ of SE. ¼, and the SE. ¼ of SE. ¼, section 8, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Thursday, December 14, 1882. Any and all persons having adverse claims to the above-described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

n 3 n 9o6.

632 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
December 14th, 1882.

I, Fred. W. Sparling, register, do hereby certify that the notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 29th day of September, 1882.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice of George W. Taylor.

Notice of application to purchase timber land.

LAND OFFICE, VANCOUVER, W. T.,
September 29th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," George W. Taylor, of Cowlitz County, Washington Territory, has this day filed in this office his application to purchase the SW. ¼ of NE. ¼, and W. ½ of SE. ¼, and the SE. ¼ of SE. ¼ of sec. 8, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above cause will be taken before the register and receiver at Vancouver, W. T., on Thursday, December 14, 1882. Any and all persons having adverse claims to the above-described land,
or any portion thereof, are hereby required to file their claims
633 in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

v 3 n 9o6.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of George W. Taylor, to purchase the SW. ¼ of NE. ¼, the W. ½

of SE. ¼, and the SE. ¼ of SE. ¼ of section 8, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivisions?

Ans. I am.

Ques. 4. When, and in what manner was such inspection made?

Ans. About the 1st of December, 1882, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

634 Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with creeks, is hilly and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so stony, hilly, and cut up with creeks, that it is unfit for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

635 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 14th day of December, 1882.

S. W. BROWN, *Receiver.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised

Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed in true, willfully, and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S 1750.)

Approved: FRED. W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

636 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 8, township 9 north, range 1 west.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of George W. Taylor to purchase the SW. ¼ of NE. ¼, the W. ½ of SE. ¼, and the SE. ¼ of SE. ¼ of section 8, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. In August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by or do not belong to the said applicant?

Ans. It is not occupied and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

637 Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with creeks, is stony and hilly.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so cut up with creeks and so stony that it is unfit for cultivation, and the land has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

638 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 14th day of October, 1882.

S. W. BROWN, *Receiver.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S 1750.)

Approved:

FRED. W. SPARLING *Register.*
S. W. BROWN, *Receiver.*

639 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 8, township 9 north, range 1 west.

No. 2050.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
Dec. 14, 1872.

Received from George W. Taylor, of Cowlitz County, Washington Territory, the sum of four hundred dollars and cents, being in full for the southwest quarter of the northeast quarter of the west half of the southeast quarter and the southeast quarter of the southeast quarter of section No. eight, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing..... $3. 15
Fees for allowing entry..... 10. 00
Paid.

S. W. BROWN,
Receiver.

$400.00.

Act of June 3, 1878.

No. 2050. LAND OFFICE AT VANCOUVER, W. T.,
December 14th, 1882.

It is hereby certified that in pursuance of law George W. Taylor, Cowlitz County, of Washington Territory, on this day purchased of the register of this office the southwest ¼ of northeast ¼ the west ½ of southeast ¼ and southeast ¼ of southeast ¼ of section No. eight (8), in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four 640 hundred dollars and —— cents, for which the said George W. Taylor has made payment in full, as required by law. Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said George W. Taylor shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

(Across the face of said cash entry is the following: Act of June 3, 1878. Canceled by letter "P" Feb'y 13, 1886. H. H. J. B. B. S. Chief Div. "P.")

(Endorsed:) No. 2050. Cash entry. Vancouver, W. T. Sec. 8, T. 9 N., R. 1 W. App'd March 10, 1882. Castle. Held for cancellation by letter "P" Oct. 31, 1885. W. W. W. Canceled by letter "P." Feb'y 13, 1886. H. H. J. B. B. S. 1 N. & W. 51.

(Endorsed:) Case 1816. Pl'ff's Ex. "N." Nov. 22, 1887. John W. Cochran, stenographer. Referee.

641 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2077, in the name of Allen A. Uncless, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
January 10th, 1883.

I, Allen A. Uncless, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of east ½ of northeast ¼, and northeast ¼ of southeast ¼ of section 20, township 9 north, of range 1 west, do solemnly swear that I am above the age of twenty-one years, and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for
642 its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

ALLEN B. UNCKLESS.

Sworn to and subscribed before me this 10th, day of January, 1883.
FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 20, township 9 north, range 1 west. Allen A. Unckless.

STATE OF OREGON,
County of Columbia, ss.

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said

county and State, and also in the adjoining county of Cowlitz,
643 Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper the period of sixty days, beginning January 12th, A. D. 1883, and ending March 16th, A. D. 1883, both days included, being ten successive issues of said newspaper. Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 19th day of March, A. D. 1883.
[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Allen B. Unckless.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
January 10, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washing Territory," Allen A. Unckless, of Multnomah County, Oregon, has this day filed in this office his application to purchase the east ½ of northeast ¼ and N. east ¼ of southeast ¼ of section 20, township 9 north, of range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver, at Vancouver, W. T., March 17th, 1883.

644 Any and all persons having adverse claims in the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
n3n23j12 *Register.*

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
March 17th, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 10th day of January, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Allen A. Unckless.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
January 10th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of

timber lands in the States of Oregon, California, Nevada, and in Washington Territory," Allen A. Uncklcss, of Multnomah County, Oregon, has this day filed in this office his application to purchase the east ½ of the northeast ¼ and the N. east ¼ of southeast ¼ of section 20, township 9 north, of range 1 west, of the Willamette meridian.

645 Testimony in the above case will be taken before the register and receiver, at Vancouver, W. T., on Saturday, March 17th, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office with sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

w3n23j12

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Allen A. Uncklcss, to purchase the east ½ of northeast ¼ and northeast ¼ of southeast ¼ of section 20, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Cast*he* Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When, and in what manner, was such inspection made?

Ans. On or about the 15th day of Sept., 1882, and about the 20th of February, 1883, by walking over the land and examining the land.

646 Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

An. It is very rough and broken.

Ques. 8. Are there any salines, *o*f indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is *it* chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is too broken to be cultivated and there is good timber on the same.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

647 Ans. I am not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 17th day of March, 1883.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which the law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such

648 oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 20, township 9 north, range 1 west.

Testimony of witness, under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Allen A. Unckless, to purchase the east ½ of northeast ¼ and northeast ¼ of southeast ¼ of section 20, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

649 Ans. About the 20th of February, 1883, by passing over the land on foot, and examining the land and timber.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough and broken.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is too broken for cultivation, and there is a fine body of timber on the same.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner with any person whomsoever, by which the title which he may acquire from the Gov-

650 ernment of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber, or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 17th day of March, 1883.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes,

and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administrated, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration,
651 deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING,
Register.

J. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 20, township 9 north, range 1 west.

No. 2077. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
March 17*th*, 1873.

Received from Allen A. Unckless, of Multnomah County, Oregon, the sum of three hundred dollars and cents, being in full for the east half of the northeast ¼, and the northeast quarter of the southeast quarter of section No. twenty, in township No. nine north, of range No. one west, Will. mer., containing one hundred and twenty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing	$3.15
Fees for allowing entry	10.00

Paid.
$300.00.

S. L. BROWN,
Receiver.

652 No. 2077. LAND OFFICE AT VANCOUVER, W. T.,
March, 17*th*, 1883.

It is hereby certified that, in pursuance of law, Allen A. Unckless Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the east ½ of northeast ¼ and northeast ¼ of southeast ¼ of section No. twenty (20), in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and twenty (20) acres, at the rate of two dollars and fifty cents per acre, amounting to three hundred dollars and cents, for which the said Allen A. Unckless has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said Allen A. Uneckless shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

(Across the face of said cash entry is the following: Act June 3, 1878. Canceled by letter "P" Feby. 13, 1886. H. H. J.—B. B. S., chief div. "P."

(Endorsed:) No. 2077. Cash entry. Vancouver, Wash. Ter. Sec. 20, T. 9 N., R. 1 Wes*r*, Nov. 3, '85. Entry held for cancellation (A. S. Mc.C.). Canceled by letter "P," Feby. 13, 1886. H. H. J.—B. B. S. 1n7w55.

(Endorsed:) Case 1813. Plffs. Ex. "O." Nov. 22, 1887. John W. Cochran, stenographer. Referee.

653 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2078, in the name of James K. Misner, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE, VANCOUVER, W. T.,
January 10*th*, 1883.

I, James K. Misner, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the east ½ of northwest ¼ and northwest ¼ of northeast ¼ of section 6, township 9 north, of range 1 west, do solemnly swear that I am above the age of twenty-one years and a native-born citizen of the United States; that the said
654 land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever,

by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself.

JAMES K. MISNER.

Sworn to and subscribed before me the 10th day of January, 1883.
FRED W. SPARLING, *Register.*

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 6, township 9 north, range 1 west. James K. Misner.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz,
655 Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning January 12th, 1883, and ending March 16th, 1883, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 19th day of March, A. D. 1883.

[SEAL.] B. M. B. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of James K. Misner.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
January 10th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3rd, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," James K. Misner, of Multnomah County, Oregon, has this day filed in this office his application to purchase the E. ½ of N. W. ¼ N. W. ¼ of N.E. ¼ of section 6, Tp. 9 N., of R. 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, W. T., on Saturday, March 17th, 1883.

656 Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING,
23ja12. *Register.*

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
March 17th, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 10th day of January, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of James K. Misner.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
January 10th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress, approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," James K. Misner, of Multnomah County, Oregon, has this day filed in this office his application to purchase the E. ½ of NW. ¼ and NW. ¼ of NE. ¼ of section 6, Tp. 9 N., of R. 1 W., of Willamette meridian.

657 Testimony in the above case will be taken before the register and receiver, at Vancouver, W. T., on Saturday, March 10th, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby requested to file their claims in this office within sixty (60) days from date hereof.

n3n23ja12.

FRED W. SPARLING,
Register.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of James K. Misner to purchase the E. ½ of northwest ¼ and northwest ¼ of northeast ¼ of section 6, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 20th of December, 1883, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not
658 made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony, broken, and rough land.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so broken and stony that it can not be cultivated with profit, and there is good body of timber on the land.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

659 Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements, of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 17th day of March, 1883.

FRED W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to

such oath states and subscribes any material matter which he does
660 not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 6, township 9 north, range 1 west.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of James K. Misner to purchase the E. ½ of northwest ¼ and northwest ¼ of northeast ¼ of section 6, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivisions?

Ans. I am.

661 Ques. 4. When and in what manner was such inspection made?

Ans. On the 20th of December, 1882; by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is broken and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The broken condition of the land renders it unfit for cultivation, and there is a fine body of timber on the same.

662 Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto; and that the same was subscribed and sworn to before me this 17th day of March, 1883.

FRED W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

663 SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which the law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars and by imprisonment, at hard labor, not more than five years, and shall moreover thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING *Register.*
S. W. BROWN, *Receiver.*

(Endorsed): Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 6, township 9 north, range 1 west.

No. 2078. RECEIVER'S OFFICE, AT VANCOUVER, WASH. TER., *March 17th*, 1873.

Received from James K. Misner, of Multnomah County, Oregon, the sum of three hundred dollars and cents, being in full for the east half of the northwest quarter, and the northwest quarter of the north-

east quarter of section No. 6, in township No. nine north, of range No. one west, Will. mer., containing one hundred and twenty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing $3.15
Fees for allowing entry..... 10.00
Paid.

$300.00. S. W. BROWN, *Receiver.*

664 (Across the face of said receipt is the following: Act of June 3, 1878.)

No. 2078. LAND OFFICE AT VANCOUVER, W. T.,
March 17th, 1883.

It is hereby certified that, in pursuance of law, James K. Misner, Cowlitz County, of Wash. Ter., on this day purchased of the register of this office the east ½ of northwest ¼ and northwest ¼ of northeast ¼ of section No. six (6), in township No. 9 north, of range No. 1 west, Will. mer., containing one hundred and twenty acres, at the rate of two dollars and fifty cents per acre, amounting to three hundred dollars and cents, for which the said James K. Misner has made payment in full, as required by law. Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said James K. Misner shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING, *Register.*

(Act of June 3, 1878. Canceled by letter "P," Feb'y 13, 1886. H. H. J. B. B. S. Chief Div. "P.")

(Endorsed:) Cash entry. Vancouver, Wash. Ter. Sec. 6, T. 9 N., R. 1 W., Nov. 3, '85. Entry held for cancellation. Canceled by letter "P," Feb'y 13, 1886. H. H. J. B. B. S.

(Endorsed:) Case 1813. Plff's Ex. "P," Nov. 22, 1887. John W. Cochran, stenographer, referee.

665 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2079, in the name of George M. Misner, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
January 10th, 1883.

I, George M. Misner, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the west half of northwest ¼ and west ½ of southwest ¼ of section 6, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhab
666 ited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any persons whomsoever by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

GEORGE M. MISNER.

Sworn to and subscribed before me this 10th day of January, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber land. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 6, township 9 north, range 1 west. George M. Misner.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of The Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State and also in the adjoining county of Cowlitz, Territory of Washington; and that said notice of application to purchase tim-
667 ber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days beginning January 12th, 1883, and ending March 16th, A. D. 1883, both days included, being ten successive issues of said newspaper.

ENOCH G. ADAMS.

Printer's fee, $10.00.

Subscribed and sworn to before me this 19th day of March, A. D. 1883.

[SEAL.]

B. MC. B. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of George M. Misner.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
January 10th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," George M. Misner, of Multnomah County, Oregon, has this day filed in this office his application to purchase the W. ½ of NW. ¼ and W. ½ of SW. ¼ of section 6, township 9 N., of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, March 17th, 1883. Any and all persons having adverse claims to the above-described land,
668 or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n23ja12. FRED W. SPARLING,
Register.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
March 17th, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 10th day of January, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of George M. Misner.

Notice of application to purchase timber land.

LAND OFFICE, VANCOUVER, W. T.,
January 10th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," George M. Misner, of Multnomah County, Oregon, has this day filed in this office his application to purchase the W. ½ of NW. ¼ and W. ½ of SW. ¼ of section 6, township 9 N., of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, March 17th, 1883.
669 Any and all persons having adverse claims to the above-described land or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n23ja12. FRED. W. SPARLING,
Register.

Testimony of witness, under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of George M. Misner, to purchase the W. ½ of NW. ¼ and W. ½ of SW. ¼ of section 6, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 20th of December, 1882, by passing over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied and there are no improvements on the
670 land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The unevenness of the ground, and the land is quite stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is so uneven and stony as to render it unfit for cultivation, and there is a fine body of timber on the same.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person, except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or
671 in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 17th day of March, 1883.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of
672 not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED. W. SPARLING,
Register.

S. W. BROWN,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 6, Township 9 north, Range 1 west.

Testimony of witness, under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of George M. Misner to purchase the west ½ of northwest ¼ and west half of southwest ¼ of section 6, township 9 north, of range 1 west, testifies *a* as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Cast*h*e Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 20th of December, 1882, by passing over the
673 land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is very stony and broken.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is stony and broken on its surface, and there is a good body of timber on it.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the
674 Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 17th day of March, 1883.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose,

or certify truly, or that any written testimony, declaration, deposi-
675 tion, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 6, township 9 north, range 1 west.

No. 2079. RECEIVER'S OFFICE, VANCOUVER, WASH. TER.,
March 17th, 1873.

Received from George M. Misner, of Multnomah County, Oregon, the sum of three hundred and fifty-nine dollars and twenty cents, being in full for the west half of the northwest quarter and the west half of the southwest quarter of section No. Six, in township No. Nine north of range No. One west, Will. mer., containing one hundred and forty-three acres and sixty-eight hundredths, at $2.50 per acre.

Fees for redusing testimony to writing $3.15
Fees for allowing entry..... .... 10.00

Paid.
$359.20.

S. W. BROWN,
Receiver.

(Act of June 3, 1878.)

676 No. 2079. LAND OFFICE AT VANCOUVER, W. T.,
March 17th, 1883.

It is hereby certified that, in pursuance of law, George M. Misner, Cowlitz County, of Washington Ter., on this day purchased of the register of this office the west $\frac{1}{2}$ of northwest $\frac{1}{4}$ and west $\frac{1}{2}$ of southwest $\frac{1}{4}$ of section No. 6 (6), in township No. 9 north of range No. 1 west, Will. mer., containing one hundred and forty-three $\frac{68}{100}$ acres, at the rate of two dollars and fifty cents per acre, amounting to three hundred and fifty-nine dollars and 20 cents, for which the said George M. Misner has made payment in full, as required by law.

Now therefore be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said George M. Misner shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

(Across the face of said cash entry is the following: Act of June 3, 1878.)

(Endorsed:) No. 2079. Cash entry. Vancouver, Wash. Ter. Sec. 6, T. 9 N., R. 1 W. Susp'd; fraud alleged. See note on tract book. Papers in Div. "P." G. B. C. Nov. 3, '85. Entry held for cancellation (A. S. McC.). Canceled by letter "P," Feb'y 18, 1886. H. H. J., B. B. S. 1 N. & W., 50.

(Endorsed:) Case 1813. Plff's. Ex. "Q." Nov. 22, 1887. John W. Cochran, stenographer. Referee.

677 "P."

H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2131, in the name of William F. Hummel, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

I, William F. Hummel, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southeast ¼ of section 18, township 9 north, od range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for
678 its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

WM. F. HUMMEL.

Sworn to and subscribed before me this 24th day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 18, township 9 north, range 1 west. William F. Hummel.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbia, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation
679 in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that notice of application to purchase timber land, a private copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.
[SEAL.] B. MC. B. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of William F. Hummel.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," William F. Hummel, of Multnomah County, Oregon, has this day filed in this office his application to purchase the SE. ¼ of section 18, township 9 north, of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and
680 receiver at Vancouver, Wash. Ter., on Saturday, the 2nd day of June, 1883. Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

w3n34m30. FRED. W. SPARLING,
Register.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," William F. Hummel, of Multnomah County,

Oregon, has this day filed in this office his application to purchase the SE. ¼ of section 18, township 9 N., of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, the 2nd day of June, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

w3n34m30. FRED. W. SPARLING,
Register.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1883.

681 I, Fred W. Sparling, register, do hereby certify that a notice a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 24th day of March, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of William F. Hummel.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of William F. Hummel to purchase the southeast ¼ of section 18, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On or about the 15th of January, 1883, by going over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not
682 *not* made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The land is broken and stony.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber *of* stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is too rough, broken, and stony for agricultural purposes, and there is a good body of timber on the same.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

683 Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of June, 1883.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not be-

684 lieve to be true, is *is* guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 18, township 9 N, range 1 W.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of William F. Hummel to purchase the southeast ¼ of section 18, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Cast*h*e Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On or about the 15th of January, 1883, by going over the
685 land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is very broken and stony land.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The broken condition of the land, its being very stony, renders it unfit for purposes of cultivation, and there is a good body of timber on the same.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract in any way or manner, with any
686 person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of June, 1883.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify,
687 declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oaths states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., sec. 18, township 9 N., range 1 W.

No. 2131. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 2nd, 1883.

Received from William F. Hummel, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southeast quarter of section eighteen, in township No. nine north of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry..... $10.00
Fees for reducing testimony to writing..... 2.25

Paid.
$400.00.

A. O. MARSH,
Receiver.

(Act June 3, 1878.)

688 No. 2131. LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1883.

It is hereby certified that, in pursuance of law, William F. Hummel, residing at Portland, in Multnomah County, Oregon, on this day purchased of the register of this office the southeast quarter of section No.

18, in township No. 9 north of range No. 1 west, of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said William F. Hummel has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said William F. Hummel shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

(Act June 3, 1873.)

(Endorsed:) No. 2131. Cash entry. Land office at Vancouver, Wash. Ter., sec. 18, town. 9, range 1 W. Held for cancellation by letter "P." April 15th, 1886. H. H. J. Hearing ordered Aug. 11, '86. H. H. J.

(Endorsed:) Case 1813. Plff's. Ex. "R." Nov. 22, 1887. John W. Cochran, stenographer, referee.

689 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2132, in the name of Hamilton Knott, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

I, Hamilton Knott, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purpose of the west half of the northeast ¼ and east half of northwest ¼ of section 18, township 9 north of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is
690 uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described

on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

HAMILTON KNOTT.

Sworn to and subscribed before me this 24th day of March, 1883.

FRED W. SPARLING, *Register*.

(Endorsed:) Timber lands. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 18, T. 9 north, range 1 west. Hamilton Knott.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Hamilton Knott, of Multnomah County, Oregon, has
691 this day filed in this office his application to purchase the west ½ of NE. ¼ and E. ½ of NW. ¼ of section 18, township 9 N. of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, the 2nd day of June, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

v3n34m30.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber land, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

692 (Endorsed:) Proof of publication of notice in case of Hamilton Knott.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 24th day of March, 1883.

FRED W. SPARLING, *Register.*

(Endorsed:) Register's certificate as to posting of notice in case of Hamilton Knott.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1882.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Hamilton Knott, of Multnomah County, Oregon, has this day filed in this office his application to purchase the W. ½ of NE. ¼ and E. ½ of NW. ¼ of section 18, township 9 N. of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, the 2nd day of June, 1883.

693 Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

v3n34m30.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Hamilton Knott, to purchase the west ½ of the northeast ¼ and east ½ of northwest ¼ of section 18, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Cast*h*e Rock, Cowlitz Co., W. T., and I reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions.

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On or about the 15th day of January, 1883, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

694 Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with creeks; is stony and broken land.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None, to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land has a fine body of timber on it, and it is too stony and cut with creeks and ravines for purposes of cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

695 Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2d day of June, 1883.

FRED. W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States.

authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be punished by a fine of not more
696 than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARCH, *Receiver.*

(Endorsed:) Timber lands, act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter.; section 18, township 9 N., range 1 W.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Hamilton Knott, to purchase the west ½ of northeast ¼ and east ½ of northeast ¼ of section 18, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Cast*h*e Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer..

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On or about the 15th of January, 1883, by going over the land on foot.

697 Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is cut up with creeks, and is stony and broken.

Ques. 3. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is so cut up with creeks, and is so stony and broken, that it is unfit for farming purposes, and there is a fine body of timber on it.

Ques. 11. Do you know whether the applicant has, directly or indidirectly, made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part
698 to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of June, 1883.

FRED W. SPARLING, *Register*.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does
699 not believe to be true, is guilty of perjury and shall be punished by a fine of not more than two thousand dollars and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register*.
A. O. MARSH, *Receiver*.

(Endorsed:) Timber lands act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., sec. 18, township 9 north, range 1 east.

No. 2132.

RECEIVER'S OFFICE AT
VANCOUVER, WASH. TER.,
June 2nd, 1883.

Received from Hamilton Knott, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the west half

of northeast quarter, east half of northeast quarter of section No. eighteen, in township No. nine north, of range No. one east, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry $10.00
Fees for reducing testimony to writing 2.25

Paid.
$400.00

A. O. MARSH, *Receiver.*

(Act June 3, 1878.)

No. 2132. LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1883.

It is hereby certified that in pursuance of law Hamilton Knott,
700 residing at Portland, Multnomah County, State of Oregon, on this day purchased of the register of this office, the west half of northeast quarter, and the east half of northwest quarter of section 18 in township No. 9 north, of range No. 1, west of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Hamilton Knott, has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of, the General Land Office the said Hamilton Knott shall be entitled to receive a patent for the lot above described.

(Act of June 3, 1878.)

FRED. W. SPARLING, *Register.*

(Endorsed:) No. 2132. Cash entry. Land office at Vancouver, Wash. Ter., section 18, town. 9 N., range 1 W. Held for cancellation by letter "P," March 8, 1886. H. H. J. Hearing ordered June 14, '86. H. H. J. Approved Nov. 9, '85, by N. D. B. Ex. clerk. Division "C." 1 n. & w. '54.

(Endorsed:) Case 1813. Plffs. Ex. "S." Nov. 22, 1887. John W. Cochran, stenographer, referee.

701 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2133, in the name of Ziba M. La Rue, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement, under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

I, Ziba M. La Rue, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northwest ¼ of section 28, township 9 north, of range 1 W., do solemnly swear that I am above the age of 21 years and a native-born citizen of the United States; that the said land *is* unfit for cultivation, and valuable chiefly for its tim-
702 ber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

ZIBA M. LA RUE.

Sworn to and subscribed before me this 24th day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Act June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 28, township 9 north, range 1 west. Ziba M. La Rue.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, WASH. TER.,
June 2nd, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 24th day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Ziba M. La Rue.

703 *Notice of application to purchase timber lands.*

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1882.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3*m*, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Wash-

ington Territory," Ziba M. La Rue, of Multnomah County, Oregon, has this day filed in this office his application to purchase the NW. ¼ of section 28, township 9 north, of range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, June 2nd, 1883. Any and all persons claiming adversely to the above-described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

w3n34m30.

FRED. W. SPARLING,
Register.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase tim-
704 ber lands, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

[SEAL.]

B. MCB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Ziba M. La Rue.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Ziba M. La Rue, of Multnomah County, Oregon, has this day filed in this office his application to purchase NW. ¼ of section 28, township 9 N., of range 1 W., of the Willamette meridian. Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, June 2nd, 1883. Any and all persons claiming adversely to the above-described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

w3n34m30.

FRED. W. SPARLING,
Register.

705 *Testimony of witness under act of June 3, 1878.*

GEORGE F. WHITE, being called as a witness in support of the application of Ziba M. La Rue to purchase the northwest ¼ of section 28, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it', smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On or about the 1st day of March, 1883, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The land is rough, broken and stony, and cut up with streams.

Ques. 8. Are there any salines, or indications of deposits of gold,
706 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land has a fine body of timber on it, and is too broken and stony and cut up with streams for purposes of cultivation.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

707 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2d day of June, 1883.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., sec. 28, town. 9 N., R. 1 west.)

708 *Testimony of witness under act of June 3, 1878.*

ROBERT ROCKWELL, being called as a witness in support of the application of Ziba M. La Rue to purchase the northwest ¼ of section 28, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 1st of March, 1883, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The land is broken, being cut with creeks, and is stony. There are several deep canyons running through the land.

Ques. 8. Are there any salines, or indications of deposits of gold,
709 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land has a fine body of timber on it, and is too broken and stony and cut up with streams for purposes of cultivation.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

710 I hereby certify that witness is a person of respectability; that each question and answer in the *go*regoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2d day of June, 1883.

FRED. W. SPARLING, *Register*.

NOTE.—The officer before the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, wilfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than

two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Tegister.*
A. O. MARSH, *Receiver.*

711 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 28, township 9 N, range 1 W.

No. 2133.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 2nd, 1883.

Received from Ziba M. La Rue, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the northwest quarter of section No. twenty-eight/, in township No. nine north, of range No. 1 west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry..... .... $10.00. Paid.
Fees for reducing testimony to writing..... ..... $2.25. Paid.
$400.00.

A. O. MARCH, *Receiver.*

Act of June 3, 1878.

No. 2133. LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1883.

It is hereby certified that, in pursuance of law, Ziba M. La Rue, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the northwest quarter of section 28, in township No. 9 north, of range 1 west of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Ziba M. La Rue has made payment in full, as required by law.

Now, therefore, be it known that on presentation of
712 this certificate to the Commissioner of the General Land Office the said Ziba M. La Rue shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING, *Register.*

(Act June 3, 1878.)

(Endorsed:) Cash entry. No. 2133. Land office at Vancouver, Wash. Ter., sec. 28, town. 9 N., R. 1 W. Held for cancellation by letter "P", March 9, 1886. H. H. J. Hearing ordered June 14 '86. H. H. J.

(Endorsed:) Case 1813. Plfs. Ex. "T." Nov. 22, 1887. John W. Cochran, stenographer, referee.

713 "P."

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2134, in the name of James L. Jewett, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

I, James L. Jewett, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northeast ¼ of section 28, township 9 north of range 1 west, do solemnly swear that I am above the age of twenty-one years and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly
714 for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

JAMES L. JEWETT.

Sworn to and subscribed before me this 24th day of March, 1883.
FRED. W. SPARLING, *Register.*

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 28, township 9 north, range 1 west. James L. Jewett.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress, approved June 3, 1878, entitled "An act for the sale of

timber lands in the States of California, Oregon, Nevada, and in Washington Territory," James L. Jewett, of Multnomah County, Ore-
715 gon, has this day filed in this office his application to purchase the NE. ¼ of section 28, township 9 N., of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, June 2nd, 1883.

Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n34m30 FRED W. SPARLING, *Register.*

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber land, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 20th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.
[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

716 (Endorsed:) Proof of publication of notice in case of James L. Jewett.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 24th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," James L. Jewett, of Multnomah County, Oregon, has this day filed in this office his application to purchase the NE. ¼ of section 28, township 9 N. of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Saturday, June 2nd, 1883. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n34m30 FRED W. SPARLING, *Register.*

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said
717 notice on the 24th day of March, 1883.

FRED W. SPARLING, *Register*.

(Endorsed:) Register's certificate as to posting of notice in case of James L. Jewett.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of James L. Jewett, to purchase the northeast ¼ of section 28, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Cas*the* Rock, Cowlitz Co., W. T., and I reside at Silver Lake in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When, and in what manner, was such inspection made?

Ans. About the 1st of March., 1883, by going over the land.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

718 Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony and broken, being cut with creeks and canyons.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land has a good body of timber on it, and is so badly cut up with creeks and canyons, and is so stony, that it is unfit for agricultural purposes.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any

person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

719 Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of June, 1883.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

720 Approved.

FRED. W. SPARLING,
Register.

A. O. MARSH,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 28, township 9 N., range 1 W.

Testimony of witness, under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of James L. Jewett to purchase the northeast ¼ of section 28, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and I reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 1st of March, 1883, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

721 Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

And. It is stony and cut up with creeks and canyons.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land has a good body of timber on it, and is too stony and rough and deep canyons to be profitably used for purposes of cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber, or stone, salines, mines, or

722 improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of June, 1883.

FRED W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertaines that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not
723 more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

A. O. MARSH,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 28, township 9 n., range 1 w.

No. 2134. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 2nd, 1883.

Received from James L. Jewett, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the northeast quarter of section No. twenty-eight, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry, $10.00. Paid.

Fees for reducing testimony to writing, $2.25. Paid.

$400.00.

A. O. MARSH,
Receiver.

(Act of June 3, 1878.)

No. 2134. LAND OFFICE AT VANCOUVER, W. T.,
June 2nd, 1883.

It is hereby certified that, in pursuance of law, James L. Jewett, Multnomah County, State of Oregon, on this day purchased of the register of this office the northeast quarter of section No. 28, in township No. 9 north,
of range No. 1 west, of the Will. principal meridian, Wash. Ter.,
724 containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said James L. Jewett has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said James L. Jewett shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

(Act June 3, 1878.)

(Endorsed:) No. 2134. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 28, town. 9 N., range 1 W. Held for cancellation by letter "P," April 15th, 1886. H. H. J. Hearing ordered Aug. 11, '86. H. H. J. App'd Nov. 9, '85, by N. D. B., ex. clerk. Div. "C." In&w—58.

(Endorsed:) Case 1813. Plfs. Ex. "U." Nov. 22, 1887. John W. Cochran, stenographer, referee.

725 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2146, in the name of William A. Freeman and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE, VANCOUVER, W. T.,
March 22nd, 1883.

I, William A. Freeman, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southeast ¼ of section 28, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly
726 for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

WILLIAM A. FREEMAN.

Sworn to and subscribed before me the 22nd day of March, 1883.
FRED W. SPARLING, *Register.*

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 28, township 9 north, range 1 west. William A. Freeman.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz,
727 Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Sworn to and subscribed before me this 6th day of June, A. D. 1883.
[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of William A. Freeman.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," William A. Freeman, of Multnomah County, Oregon, has this day filed in this office his application to purchase the SE. ¼ of section 28, township 9 N., of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, W. T., on Monday, the 4th day of June, 1883.
728 Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date thereof.

FRED W. SPARLING, *Register.*

v3n34m30.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 15, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 22nd day of March, 1883.

FRED W. SPARLING, *Register.*

(Endorsed:) Register's certificate as to posting of notice in case of William A. Freeman.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1893.

Notice is hereby given that in compliance with the provisions of the act of Congress, approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," William A. Freeman, of Multnomah County, Oregon, has this day filed in this office his application to purchase the SE. ¼ of section 28, township 9 N., of range 1 west of the Willamette meridian. Testi-
729 mony in the above case will be taken before the judge of the probate court at Kalama, W. T., on Monday, the 4th day of June, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in the office within sixty (60) days from date hereof.

v3n34m30. FRED W. SPARLING, *Register*.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of William A. Freeman, to purchase the SE. ¼ of section 28, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz County, W. T.; residence, Silver Lake.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 20th of March, 1883, by passing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not; none.

730 Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being broken and stony, and cut up by creeks.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is broken and stony and cut up by creeks, and has a fine body of timber on it.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements, of any description whatever thereon?

731 Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 4th day of June, 1883.

[SEAL.]

S. W. BEALL,
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such

732 time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 28, township 9 N., range 1 W.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of William A. Freeman to purchase the southeast ¼ of section 28, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T.; residence, Silver Lake.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it—smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 20th of March, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied; no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

733 Ques. 7. What causes render it unfit for cultivation?

Ans. Rocky and rough, and cut up by creeks and gulches.

Ques. 8. Are there any salines, or indications of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. There is nothing there to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. Because it has a fine body of timber and is cut up by creeks and gulches and is stony.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

734 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto; and that the same was subscribed and sworn to before me this fourth day of June, 1883.

[SEAL.] S. W. BAELL,
Probate Judge, Cowlitz Co., Wash. Terr.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which the law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars and by imprisonment, at hard labor, not more than five years, and shall moreover thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

735 Approved.

FRED W. SPARLING *Register.*
A. O. MARSH, *Receiver.*

(Endorsed): Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 28, township 9 n., range 1 w.

No. 2146. RECEIVER'S OFFICE, AT VANCOUVER, WASH. TER.,
June 15th, 1883.

Received from William A. Freeman, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southeast quarter of section No. 28, in township No. nine north of range one east, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre. Fees for allowing entry, $10.00. Paid. $400.00.

A. O. MARSH, *Receiver.*

(Act of June 3, 1878.)

No. 2146. LAND OFFICE AT VANCOUVER, W. T.,
June 15th, 1883.

It is hereby certified that, in pursuance of law, William A. Freeman, residing at Portland, Multnomah County, Oregon, on this day purchased of the register of this office the southeast quarter of section No. twenty-eight in township No. nine north of range No. 1 west of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said William A. Freeman has made payment in full, as required by law. Now, therefore, be it known that on

736 presentation of this certificate to the Commissioner of the General Land Office the said William A. Freeman shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING, *Register.*

(Act of June 3, 1878. Canceled by letter "P," April 15th, 1886. H. H. J. B. B. S. Chief Div. "P.")

(Endorsed:) Cash entry. Land office at Vancouver, Wash. Ter. Sec. 28, town. 9 N., range 1 W., sup'd. Canceled by letter "P." April 15th, 1886. H. H. J. B. B. S. App'd 85. Ex. clerk. Div. "C."

(Endorsed:) Case 1813. Plff's Ex. "V," Nov. 22, 1887. John W. Cochran, stenographer, referee.

737 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate, No. 2147, in the name of Michael H. McMannus, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

I, Michael H. McMannus, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southeast ¼ of section 32, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable
738 chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefot of any person except myself.

MICHAEL H. MCMANNUS.

Sworn to and subscribed before me this 22nd day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 32, township 9 north, range 1 west. Michael H. McMannus.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of The Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State and also in the adjoining county of Cowlitz, Terri-
739 tory of Washington; and that said notice of application to purchase timber land, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days beginning March 31st, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.
[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Michael H. McMannus.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compl*ai*nce with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Michael H. McMannus, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast ¼ of section 32, township 9 north, of range 1 west, of the Willamette meridian. Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Monday, the 4th day of June, 1883.

Any and all persons having adverse claims to the above-described
740 lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n34m30. FRED W. SPARLING,
Register.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty (60) days, I having first posted said notice on the 22nd day of March, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Michael H. McMannus.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Michael H. McMannus, of Multnomah County, Oregon, had this day filed in this office his application to purchase the southeast ¼ of section 32, township 9 north, of range 1 west, of the Willamette meridian.

741 Testimony in the above case will be taken before the judge of the probate court, at Kalama, Wash. Ter., on Monday, the 4th day of June, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n34m30. FRED. W. SPARLING,
Register.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Michael H. McManus to purchase the southeast quarter of section 32, township 9 north of range 1 west of the Willamette meridian, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock; residence, Silver Lake, both in Cowlitz Co., Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. It was made in March, 1883, about the 20th, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not
742 made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not. There are none.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough and broken and stony, and cut up by creeks and gulches.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Nothing to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is more valuable for timber than anything else.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. Because it has a fine body of timber on it, and is broken, stony, and cut up by creeks and gulches.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person, except himself?

743 Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 4th day of June, 1883.

[SEAL.]

A. N. BUELL,
Probate Judge Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary

744 to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 32, township 9 north, range 1 west.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Michael H. McManus to purchase the southeast ¼ of section 32, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Silver Lake, both in Cowlitz Co., Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 20th of March, 1883, by passing over it on foot.

745 Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough, stony, and broken, and cut up by creeks.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the broken condition of the ground, and the fact that it is covered by a fine body of timber.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

746 Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this fourth day of June, 1883.

A. N. BEULL, [SEAL.]
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and con-
747 trary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 32, township 9 N, range 1 west.

No. 2147. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 16th, 1883.

Received from Michael H. McMannus, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southeast quarter of section No. 32, in township No. nine north of range No. one west Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre. Fees for allowing entry, $10.00. 'aid. $400.00.

A. O. MARSH, *Receiver.*

(Act June 3, 1878.)

No. 2147. LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

It is hereby certified that, in pursuance of law, Michael H. McMannus, residing at Portland, in Multnomah County, State of Oregon, on
748 this day purchased of the register of this office the southeast ¼ of section 32, in township No. 9 north of range No. 1 west of the

Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Michael H. McMannus has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said Michael H. McMannus shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING, *Register.*

(Act June 3, 1878. Canceled by letter "P," February 18, 1886. H. H. J.—B. B. J. Chief Div., "P.")

(Endorsed:) No. 2147. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 32, town. 9 N., range 1 W. See to letter P. to R. & R. Nov. 5, 1885, entry held for cancellation (A. S. McC.). Canceled by letter "P," Feb. 18, 1886. H. H. J. B. B. J.

(Endorsed:) Case 1813. Plfs. Ex. "W." Nov. 22, 1887. John W. Cochran, stenographer. Referee.

749 "P." H. H. H. B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2148, in the name of Mark Woods, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

I, Mark Woods, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the east ½ of southwest ¼ and northwest of southwest ¼ of section 18, township 9 north, of range 1 west, do solemnly swear that I am above the age of twenty-one years and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other
750 improvements whatever, nor, as I verily believe, any valuable de-

posit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

MARK WOODS.

Sworn to and subscribed before me this 22nd day of March, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Timber lands, act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 18, township 9 north, range 1 west. Mark Woods.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended to and made a part of this affida-
751 vit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days included, being ten successive issues of said newspaper. Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

B. MC. B. CAPLES,
Notary Public for Ogn.

(Endorsed:) Proof of publication of notice in case of Mark Woods.

Notice of publication to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the State of California, Oregon, Nevada, and in Washington Territory," Mark Woods, of Multnomah County, Oregon, has this filed in this office his application to purchase the east ½ of southwest ¼ and the northwest ¼ of southwest ¼ of section 18, township 9 north, of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court, at Kalama, Wash. Ter., on Tuesday, the 5th day of June,

1883. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n34m30. FRED W. SPARLING,
Register.

752 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 22nd day of March, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Mark Woods.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Mark Woods, of Multnomah County, Oregon, has this filed in this office his application to purchase the east half of southwest ¼ and the northwest ¼ of southwest ¼ of section 18, township 9 north of range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court, at Kalama, Wash. Ter., on Tuesday, the 5th day of June, 1883.

Any and all persons having adverse claims to the above de-
753 scribed lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n34m30. FRED W. SPARLING,
Register.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Mark Woods to purchase the east ½ of the southwest ¼ and the northwest ¼ of the southwest ¼ of section 18, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock; residence, Silver Lake; both in Cowlitz Co., Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described, by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About June 1st, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not; no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

754 Ques. 7. What causes render it unfit for cultivation?

Ans. Being rough and broken and cut up with creeks and stony.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is rough and broken and cut up with creeks and gulches, and has a fine body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I do not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn

755 to before me this fifth day of June, 1883.

[SEAL.] S. W. BEALL,

Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S., 1750.)

Approved.

FRED W. SPARLING,
Register.

A. O. MARSH,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., sec. 18, T. 9 N., R. 1 W.

756 *Testimony of witness under act of June 3, 1878.*

GEORGE F. WHITE, being called as a witness in support of the application of Mark Woods, to purchase the east ½ of the southwest ¼ and the northwest ¼ of the southwest ¼ of section 18, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Cas*the* Rock; reside at Silver Lake, both in Cowlitz Co., Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About Jan. 1st, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not; no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is very rough and broken, and is stony and cut up with creeks.

Ques. 8. Are there any salines, or indications of deposits of gold,
757 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the facts that it has a fine body of timber, and is stony and cut up with creeks.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and
758 sworn to before me this fifth day of June, 1883.

[SEAL.] S. W. BEALL,
Probate Judge Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
O. A. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 18, township 9 N., range 1 W.

759 No. 2148.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 16th, 1883.

Received from Mark Woods, of Multnomah County, Oregon, the sum of two hundred and ninety-one dollars and twenty-five cents, being in full for the east half of southwest quarter and the northwest quarter of southwest quarter of section No. eighteen, township No. nine north, of range No. one west, Will. mer., containing one hundred and sixteen acres and fifty hundredths, at $2.50 per acre.

Fees for allowing entry, $10.00. Paid.

A. O. MARSH, *Receiver.*

$291.25.

(Act June 3, 1878.)

No. 2148. LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

It is hereby certified that in pursuance of law Mark Woods, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the east half of southwest quarter and the northwest quarter of southwest quarter of section No. 18, in township No. 9 north, of range No. 1 west, of the Will. principal meridian, Wash. Ter., containing $116\frac{50}{100}$ acres, at the rate of two dollars and fifty cents per acre, amounting to two hundred and ninety-one dollars and twenty-five (25) cents, for which the said Mark Woods has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said Mark
760 Woods shall receive a patent for the lot above described.

FRED. W. SPARLING, *Register.*

(Act June 3, 1878. Canceled by letter "P," June 14, 1886. H. H. J. B. B. S., chief div. "P.")

(Endorsed:) No. 2148. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 18, township 9 N., range 1 W. Held for cancellation by letter "P," March 5, 1886. H. H. J. Canceled by letter "P," June 14, 1886. H. H. J. B. B. S. 1 N. & W., 54.

(Endorsed:) Case 1813. Plfs.' Ex. X. Nov. 22, 1887. John W. Cochran, stenographer, referee.

761 "P."

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2149, in the name of Alexander Lothian, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement, under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

I, Alexander Lothian, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southwest ¼ of section 32, township 9 north, of range 1 west, do solemnly swear that I am above the age of 21 years, and have declared my intedtion to become a citizen of the United States; that the said land is unfit for
762 cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

ALEXANDER LOTHIAN.

Sworn to and subscribed before me this 22nd day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., section 32, township 9 north, range 1 west. Alexander Lothian.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, also in the adjoining county of Cowlitz, Territory of
763 Washington, and that said notice of *of* application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.
[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Alexander Lothian.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Alexander Lothian, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southwest ¼ of section 32, township 9 north, of range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Tuesday, the 5th day of June, 1883.

764 Any and all persons having adverse claims to the above-described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

u3n34m30.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 22nd day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Alexander Lothian.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Alexander Lothian, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southwest quarter of section 32, township 9 north, of range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Tuesday, the 5th day of

765 June, 1883. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
Register.

u3n34m30.

UNITED STATES OF AMERICA,
State of Oregon, County of Multnomah, ss:

I, Alexander Lothian, do declare on oath that it is bona fide my intention to become a citizen of the United States of America, and to renounce forever all allegiance and fidelity to all and any foreign prince, potentate, state, and sovereignty whatsoever, and particularly to the Queen of Great Britain and Ireland, of whom I am at present a subject.

Signed: A. LOTHIAN.

Subscribed and sworn to before me this 26th day of March, 1876.

JAMES A. SMITH,
Clerk of the Circuit Court, Multnomah County, Oregon.

STATE OF OREGON,
County of Multnomah, ss:

I, Wm. R. Sewell, county clerk and ex-officio clerk of the circuit court of the State of Oregon, for the county of Multnomah, do hereby certify that the foregoing copy of declaration of intention to become a citizen of the United States has been by me compared with the original, and that it is a correct copy of the whole of such original declaration of intention to become a citizen of the United States, as the same appears on file at my office and in my custody.

766

In testimony whereof, I have hereunto set my hand and affixed the seal of said court this 22nd day of March, 1883.

[SEAL.] WM. R. SEWELL, *Clerk.*

(Endorsed:) Copy of declaration of intention of Alexander Lothian.

(Across the margin of said declaration of intention of Alexander Lothian is the following, to wit: U. S. Land Office, Vancouver, W. T., March 22, 1883. I hereby certify that this is a true copy of the original. Fred. W. Sparling, register.)

Testimony of witness, under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Alexander Lothian to purchase the southwest ¼ of section 32, township 9 north, of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock; residence, Silver Lake, both in Cowlitz Co., Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it; smallest legal subdivisions?

767

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 15th of March, 1883, by passing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not; no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Rough and stony, and cut up with creeks.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is rough, broken, and stony, and that it has a fine body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the
768 Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto; and that the same was subscribed and sworn to before me this fifth day of June, 1883.

[SEAL.] S. W. BEALL,
Probate Judge.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposi-
769 tion, or certificate by him subscribed, is true, willfully, and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at

hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 32, township 9 N., range 1 W.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Alexander Lothian to purchase the southwest ¼ of section 32, township 9 ——, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock; reside at Silver Lake; both in Cowlitz Co., Wash. Ter.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

770 Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 8th of March, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not occupied, and has no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is rough and stony and broken, and cut up with streams and gulches.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Nothing there, to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it has a fine body of timber, and that it is cut up with creeks and gulches and is stony.

Ques. 11. Do you know whether the applicant has directly or in-

771 directly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this fifth day of June, 1883.

S. W. BEALL, [SEAL.]
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the
772 United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 32, township 9 N., range 1 W.

No. 2149. RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 16th, 1883.

Received from Alexander Lothian, of Multnomah Co., Oregon, the sum of four hundred dollars and cents, being in full for the southwest quarter of section No. thirty-two, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry, $10.00, paid.
$400.00.

A. O. MARSH, *Receiver.*

(Act June 3rd, 1878.)

773 No. 2149. LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

It is hereby certified that, in pursuance of law, Alexander Lothian, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the southwest quarter of section No. 32, in township No. 9 north of range No. 1 west of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Alexander Lothian has made payment in full, as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said Alexander Lothian shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING, *Register*.

(Act June 3, 1878. Canceled by letter "P," Feb'y 13, 1886. H. H. J.—B. B. S. Chief div. "P.")

(Endorsed:) No. 2149. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 32, town. 9 N., range 1 W. Susp'd. Held for cancellation by letter "P," Oct. 31, 1885. W. W. W. Canceled by letter "P," Feb'y 13, 1886. H. H. J.—B. B. S. 1 N. & W.—59.

(Endorsed:) Case 1813. Plfs. Ex. "Y," Nov. 22, 1887. John W. Cochran, stenographer. Referee.

774 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2152, in the name of Robert J. Dooling, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 27th, 1883.

I, Robert J. Dooling, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the

east ¼ of northwest ¼ and east ½ of southwest ¼ of section 30, township 9 north of range 1 west, do solemnly swear that I am the head of a family, and a naturalized citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improve-
775 ments whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United State may inure in whole or in part to the benefit of any person except myself.

ROBERT J. DOOLING.

Sworn to and subscribed before me this 27th day of March, 1883.

FRED W. SPARLING, *Register.*

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 30, township 9 north, range 1 west. Robert J. Dooling.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helens, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz,
776 Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

[SEAL.] ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

B. MCB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Robert J. Dooling.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 27th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of tim-

ber lands in the States of California, Oregon, Nevada, and in Washington Territory," Robert J. Dooling, of Multnomah County, Oregon, has this day filed in this office his application to purchase the east ½ of northwest ¼ and east ½ of southwest ¼ of section 30, township 9 north of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883.

777 Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

u3n34,30 FRED. W. SPARLING, *Register*.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 27th day of March, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Robert J. Dooling.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 27th, 1883.

Notice is hereby given that in compliance with the provsions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Robert J. Dooling, of Multnomah County, Oregon, has this day filed in this office his application to purchase the east ½ of northwest ¼ and east ½ of southwest ¼ of section 30, township 9 north of
778 range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883. Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

u3n34m30.

In the circuit court of the United States for the district of Oregon.

MARCH 26, 1883.

In the matter of admission of R. J. Dooling to become a citizen of the United States.

Now at this day comes the above-named J. R. Dooling, and prays to be admitted to become a citizen of the United States of America, and it

appearing to the court, from the testimony of John J. Byron, M. Flanigan, & William Murry, now offered, that said applicant is in all respects duly qualified and entitled to such admission according to the laws of Congress regulating the naturalization of aliens, and the said applicant, upon his oath first duly administered, now declares that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, State, or sovereignty whatever, particularly to Victoria.

779 Queen of Great Britain and Ireland, of whom he was a subject: Therefore it is considered that said R. J. Dooling be, and hereby is, admitted to become a citizen of the United States of America.

DISTRICT OF OREGON, *ss:*

I, R. H. Lamson, clerk of the above entitled court, do hereby certify that the foregoing is a true copy of the order of said court in the above entitled matter.

Witness my hand and the seal of said court at Portland, Oregon, this 26th day of March, 1883.

[SEAL OF U. S. CIRCUIT COURT.]

R. H. LAMSON,
By G. G. GAMMONS,
Deputy Clerk.

(Endorsed:) Proof of citizenship of R. J. Dooling, U. S. land office, Vancouver, W. T., March 27th, 1883. I hereby certify that this is a true copy of the original. Fred W. Sparling, register.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Robert J. Dooling to purchase the east ½ of the northwest ¼ and the east ½ of the southeast ¼ of section 30, township 9 north, of range one west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, reside at Silver Lake, both in Cowlitz Co., W. T.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

780 Ques. 4. When and in what manner was such inspection made?

Ans. About Feb. 1st, 1883, by passing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by or do not belong to the said applicant?

Ans. It is not, no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being stony and broken and cut up with gulches and canyons.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is broken and stony and cut up with gulches and canyons and that there is a fine body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire
781 from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this sixth day of June, 1883.

[SEAL.]

S. W. BEALL,
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify,
782 declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 30, Township 9 N., range 1 west.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Robert J. Dooling to purchase the east ½ of the northwest ¼ and the east ½ of the southwest ¼ of section 30, township 9 north, of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, reside at Silver Lake, both in Cowlitz Co., W. T.,

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

783 Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of Feb., 1883, by passing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not and there are no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being very rough and broken, and cut with creeks and covered with stone.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Not to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber?

Ans. It is rough and broken and cut up with creeks and gulches and has a fine body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner, with

784 any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. Not to my knowledge.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 6th day of June, 1883.

[SEAL.]

S. W. BEALL,
Probate Judge, Cowlitz Co. Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify,
785 declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING,
Register.

A. O. MARSH,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 30, township 9 N., range 1 W.

No. 2152. RECEIVER'S OFFICE, VANCOUVER, WASH. TER.

Received from Robert J. Dooling, of Multnomah County, Oregon, the sum of four hundred dollars and cents; being in full for the east ½ of northwest quarter and east ½ of southwest quarter of section No. thirty, in township No. nine north of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre. Fees for allowing entry $10.00. Paid.
$400.00.

A. O. MARSH,
Receiver.

(Act of June 3, 1878.)

786 No. 2152. LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

It is hereby certified that in pursuance of law Robert J. Dooling, residing at Portland, in Multnomah County, Oregon, on this day purchased

of the register of this office the east half of northwest quarter and the east half of southwest quarter of section No. 30, in township No. 9 north of range No. one west of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Robert J. Dooling has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office, the said Robert J. Dooling shall be entitled to a patent for the lot above described.

FRED W. SPARLING,
Register.

(Act June 3, 1878.)

(Endorsed:) No. 2152. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 30, T. 9 N., range 1 W. Held for cancellation by letter "P." April 15, 1886. H. H. J. Hearing ordered Aug. 11, '86. H. H. J. 1 n & W. 58.

(Endorsed:) Case 1813. Plffs. Ex. "Z," Nov. 22, 1887. John W. Cochran, stenographer. Referee.

790 These (3) sheets in final proof, David E. Budd, Exhibit No. 6, page 857—misplaced—and transferred to proper place.

A. REEVES AYRES, *Clerk U. S. Circuit Court.*

"P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2153, in the name of Joseph Hughes, and accompanying papers are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 27th, 1883.

I, Joseph Hughes, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the west ½ of northeast ¼ and west ½ of southeast ¼ of section 30, township 9 north of range 1 west, do solemnly swear that I am above the age of 21
791 years, and a naturalized citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its tim-

ber; that it is uninhabited; that it contains no mining improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

JOSEPH HUGHES.

Sworn to and subscribed before me this 27th day of March, 1883.

FRED W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 30, town. 9 north, range 1 west. Joseph Hughes.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia Co., Oregon, and that said newspaper has a general circulation in said county and State, also in the adjoining county of Cowlitz, Ter-
792 ritory of Washington, and that said notice of application to purchase timber land, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

[SEAL.] B. McB. CAPLES,
Notary Public for Og'n.

(Endorsed:) Proof of publication of notice in case of Joseph Hughes.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 27th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitl'd "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Joseph Hughes, of Multnomah County, Oregon, has this day filed in this office his application to purchase the west ½ of NE. ¼ and W. ½ of SE. ¼ of section 30, township 9 N. of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court, at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883. Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.
v3n34m30. FRED W. SPARLING, *Register*.

793 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 27th day of March, 1883.

FRED W. SPARLING, *Register*.

(Endorsed:) Register's certificate as to posting of notice in case of Joseph Hughes.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 27th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Joseph Hughes, of Multnomah County, Oregon, has this day filed in this office his application to purchase the W. ½ of NE. ¼ and W. ½ of SE. ¼ of section 30, township 9 north of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court, at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883. Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.
v3n34m30. FRED W. SPARLING, *Register*.

794 UNITED STATES OF AMERICA:

Be it remembered that at the court of common pleas No. 3, for the county of Philadelphia, held at Philadelphia, in the Commonwealth of Pennsylvania, in the United States of America, on the eighteenth day of September, in the year of our Lord one thousand eight hundred and seventy-six, Joseph Hughes, a native of Ireland, exhibited a petition praying to be admitted to become a citizen of the United States of America, and it appearing to the said court that he had declared on oath before the prothonotary of said court, on the day above mentioned, A. D. 1876, that it was bona fide his intention to become a citizen of the United States, and to renounce forever all allegeance and fidelity to any foreign prince, potentate, state, or sovereignty whatsoever, and particularly to the Queen of Great Britain and Ireland, of whom he was at that time a subject and the

said Joseph Hughes having on solemn oath declared and also made proof thereof agreeably to law to the satisfaction of the court that he had resided within the limits and under the jurisdiction of the United States of America three years next preceding his arrival at the age of twenty-one years, and continued to reside therein to the time of making his application; that including his three years of his minority he had resided within the limits and under the jurisdiction of the United States five years and upwards, and that during the three years next preceding it had been
795 bona fide his intention to become a citizen of the United States, and that during that time he had behaved as a man of good moral character, attached to the principles of Constitution of the United States and well disposed good order and happiness of the same, and having declared on his solemn oath before the said court that he would support the Constitution of the United States, and that he did absolutely and entirely renounce and abjure all allegience and fidelity to every foreign prince, potentate, state, or sovereignty whatsoever, and particularly to the Queen of Great Britain and Ireland, of whom he was before a subject, and having in all respects complied with the laws in regard to naturalization thereupon, the court admitted the said Joseph Hughes to become a citizen of the United States and ordered all the proceedings aforesaid to be recorded by the prothonotary of said court, which was done accordingly.

In witness whereof I have hereunto affixed the seal of said court at Philadelphia this 18th day of September, in the year of our Lord one thousand eight hundred and seventy-six, and of the sovereignty and independance of the United States of America the one hundred and first.

[SEAL OF COURT COMMON PLEAS.] WILLIAM B. MANN,
Prothonotary.

Per C. B. ROBERTS,
Deput'y Prothy.

(Endorsed:) Proof of citizenship of Joseph Hughes.

796 *Testimony of witness under act of June 3, 1878.*

GEORGE F. WHITE, being called as a witness in support of the application of Joseph Hughes to purchase the W. ½ of NE. ¼ and the W. ½ of SE. ¼, of section 30, township 9 north of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, reside at Silver Lake, both in Cowlitz Co.,. W. T.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the middle of June, 1883, by passing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch *or* canal purposes or which were not made by or do not belong to the said applicant?

Ans. It is not. No improvements to my knowledge.

Ques. 6. Is it fit for cultivation?

Ans. It is not

Ques. 7. What causes render it unfit for cultivation?

Ans. It is steep, broken, and stony, and cut up with creeks.

Ques. 8. Are there any salines, or indications of deposits of gold,
797 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. Nothing to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is steep and broken and is cut up with creeks and ravines and has a good body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and
798 sworn to before me this 6th day of June, 1883.

[SEAL.] S. W. BEALL,
Probate Judge, Cowlitz Co., W. T.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not

more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 30, township 9, range 1 W.

799 *Testimony of witness under act of June 3, 1878.*

ROBERT ROCKWELL, being called as a witness in support of the application of Joseph Hughes to purchase the west ½ of the NE. ¼ and the west ½ of the SE. ¼ of section 30, township 9 north of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, reside at Silver Lake, both in Cowlitz Co., W. T.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it, smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 15th of February, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. *O*t is not. No improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being rough, stony and broken, and cut up with creeks.

Ques. 8. Are there any salines, or indications of deposits of gold,
800 silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is rough, broken, and stony, and cut up with creeks, and that there is a fine body of timber on the same.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each
801 question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this sixth day of June, 1883.

S. W. BEALL, *Probate Judge, Cowlitz Co., W. T.* [SEAL.]

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully, and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved: FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

802 (Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 30, township 9 N., range 1 W.

No. 2153.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 16th, 1883.

Received from Joseph Hughes, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the west half of northeast quarter and west half of southeast quarter of section No. thirty, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre. Fees for allowing entry, $10.00. Paid.

$400.00. A. O. MARSH,
Receiver.

(Act of June 3, 1878.)

No. 2153. LAND OFFICE AT VANCOUVER, W. T.,
June 16th, 1883.

It is hereby certified that in pursuance of law Joseph Hughes, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the west half of the northeast quarter and the west half of southeast quarter of section No. 30, in township No. 9 north, of range No. 1 west, of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Joseph Hughes has made payment in full, as required by law.
803 Now, therefore, be it known that, on presentation of this certificate to the Commissioner of the General Land Office, the said Joseph Hughes shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING,
Register.

(Act of June 3, 1878.)

(Endorsed:) No. 2153. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 30, town. 9 N., range 1 W. Held for cancellation by letter "P" April 15, 1886. H. H. J. Hearing ordered Aug. 11, '86. H. H. J. 1 N. & W. 58.

(Endorsed:) Case 1813. Plfs. Ex. "A 1." Nov. 22, 1887. John W. Cochran, stenographer, referee.

804 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2156, in the name of William D. O'Regan, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

I, William D. O'Regan, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southwest ¼ of section 22, township 10 north, of range 1 west, do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its tim-

ber; that it is uninhabited; that it contains no mining or other
805 improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

WILLIAM D. O'REGAN.

Sworn to and subscribed before me this 22nd day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 22nd, township 10 north, range 1 west. William D. O'Regan.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber
806 lands, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper. Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

[SEAL.] B. MCB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of William D. O'Re'an.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, '83.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washing Territory," William D. O'Regan, of Multnomah County, Oregon, has this day filed in this office his application to purchase the SW. ¼ of section 22, township 10 N., of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Monday, the 4th day of June, 1883.

Any and all persons having adverse claims to the above-described lands or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED. W. SPARLING,
v3n34m30 *Register.*

807 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, WASH. TER.,
June 20th, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for the period of sixty days, I having first posted said notice on the 22nd day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of William D. O'Regan.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 22nd, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," William D. O'Regan, of Multnomah County, Oregon, has this day filed in this office his application to purchase the SW. ¼ of section 22, township 10 N., of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Monday, the 4th day of June, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

808 FRED. W. SPARLING,
Register.

v3n34m30

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of William D. O'Regan, to purchase the southwest ¼ of section 22, township 10 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?
Ans. Castle Rock, Cowlitz Co., Wash. Ter.; residence, Silver Lake.
Ques. 2. What is your occupation?
Ans. Farmer.
Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?
Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of March, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not; there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being rough and stony and cut up with creeks.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what
809 they are, and whether the springs or mineral deposits are valuable?

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact of its being rough and broken and cut up with creeks and gulches, and has a fine body of timber.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and
810 sworn to before me this fourth day of June, 1883.

A. N. BUELL. [SEAL.]
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or

certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING,
Register.

A. O. MARSH,
Receiver.

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T. Sec. 22, T. 10 N., R. 1 W.

811 *Testimony of witness under act of June 3, 1878.*

GEORGE F. WHITE, being called as a witness in support of the application of William D. O'Regan to purchase the southwest ¼ of section 22, township 10 north, of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., Wash. Ter.; reside at Silver Lake.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 15th of March, 1883, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and has no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. No, it is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. The rough and broken condition, and being stony and cut up by creeks.

Ques. 8. Are there any salines or indications of deposits of gold,
812 silver, cinnabar, copper, or coal on this land; if so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. There is nothing there to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It has a good body of timber and is rough and broken, and is stony and cut up with creeks.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person

whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and
813 sworn to before me this fourth day of June, 1883.

S. M. BUELL, [SEAL.]
Probate Judge, Cowlitx Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T. Section 22, town. 10 N., R. 1 W.

814 No. 2156.

RECEIVER'S OFFICE, VANCOUVER, WASH. TER.,
June 20th, 1883.

Received from William D. O'Regan, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southwest quarter of section No. twenty-two, in township No. ten north of range No. one west Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre. $400.00.
Fees for allowing entry, $10.00, paid.

A. O. MARSH, *Receiver.*

(Act of June 3, 1878.)

No. 2156. LAND OFFICE AT VANCOUVER, WASH. TER.,
June 20th, 1883.

It is hereby certified that, in pursuance of law, William D. O'Regan, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the southwest quarter of section No. 22, in township No. 10 north of range No. 1 west of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents; for which the said William D. O'Regan has made payment in full, as required by law.

Now therefore be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said William D. O'Regan shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING, *Register*.

(Act June 3, 1878. Cancelled by letter "P". April 16, 1886. H. H J.—B. B. J. Chief Div. "P".)

815 (Endorsed:) No. 2156. Cash entry. Land Office at Vancouver, Wash. Ter. Sec. 22, town. 10 N. range, 1 W. Canceled by letter "P." April 16, 1886. H. H. J.—B. B. J. 1 N. & W.—68.

(Endorsed:) Case 1813. Plf's. Ex. "A, 2." Nov. 22, 1887. John W. Cochran, stenographer, referee.

816 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T., cash certificate No. 2157, in the name of Joseph J. Meagher, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 28th, 1883.

I, Joseph J. Meagher, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northwest ¼ of section 34, township 9 north, of range 1 west, do solemnly swear that

I am above the age of 21 years and a naturalized citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mi-
817 ning or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

JOSEPH J. MEAGHER.

Sworn to and subscribed before me this 28th day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 34, township 9 north, range 1 west. Joseph J. Meagher.

STATE OF OREGON,
County of Cowlitz, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber
818 land, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning March 30th, A. D. 1883, and ending June 1st, A. D. 1883, both days inclusive, being ten successive issues of said newspaper. Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.

[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Joseph J. Meagher.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 28th, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Joseph J. Meagher, of Multnomah County, Oregon, has this day filed in this office his application to purchase the northwest ¼ of section 34, township 9 north, of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883. Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to
819 file their claims in this office within sixty (60) days from date hereof.
n3n34m40. FRED. W. SPARLING,
Register.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 20th, 1883.

I, Fred. W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 28th day of March, 1883.

FRED. W. SPARLING,
Register.

(Endorsed:) Register's certificate as to posting of notice in case of Joseph J. Meagher.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 28, 1883.

Notice is hereby given that in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Joseph J. Meagher, of Multnomah County, Oregon, has this day filed in this office his application to purchase the northwest ¼ of section 34, township 9 N., of range 1 W., of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court, at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883.

820 Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.
u3n34m40. FRED. W. SPARLING, *Register.*

Certificate of citizenship.

United States of America, State of California, county of San Francisco, in the county court.

Be it known that on this 18th day of December, A. D. 1854, Joseph John Meagher, late of Ireland, in the Kingdom of Great Britain, and at present and for the year last past a resident of said State of California, appeared in our said said court (the same being a court of record, having common-law jurisdiction, a clerk, and seal), and applied to said court to be admitted a citizen of the United States of America, pursuant to act of

Congress in relation thereto, and the said Joseph John Meagher having then exhibited to said court a certificate of his declaration of *of* intention to become a citizen, made in the court of common pleas, city and county of New York, on the 18th day of August, A. D. 1849, and proved by the oath of John O'Neil, a citizen of the United States, his residence within the United States for the last five years, and his residence within said State for the last year, and that during that time he has behaved as a man of good moral character, attached to the principles of the Constitution of the Unites States and well disposed to the good order
821 and happiness of the same, and the said Joseph John Meagher on oath then declared before said court that he will support the constitution of the United States of America, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatever, and particularly to Victoria, Queen of Great Britain and Ireland, and thereupon it was ordered by the said court that the said Joseph John Meagher be admitted, and he was accordingly admitted by the said court, to be a citizen of the United States of America.

Attest:

THOMAS HAYES, *Clerk*,
By DENNIS LYONS, *Deputy*.

OFFICE OF THE CLERK OF THE SUPREME COURT,
City & County of San Francisco, State of California, ss:

I, William T. Sesnon, county clerk and ex-officio clerk of the supreme court in and for the city and county of San Francisco, State of California, said court being a court of record, having common-law jurisdiction and a clerk and seal, do certify that the above is a true copy of the act of naturalization of Joseph John Meagher, as the same appears upon the records of county court now in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 15th day of May, in the year of our Lord one thousand eight hundred and eighty-three, and in the year of our Independence the one hundred and seventh.

[SEAL.]

WILLIAM T. SESNON, *Clerk*,
By W. J. BLADNER, *Deputy Clerk*.

822 U. S. LAND OFFICE, VANCOUVER, W. T.,
March 28, 1883.

I hereby certify that the above is a true copy of the original.

FRED. W. SPARLING, *Register*.

(Endorsed:) Proof of citizenship of Joseph John Meagher.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Joseph J. Meagher to purchase the northwest ¼ of section 34, township 9, of range one west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock; reside at Silver Lake, both in Cowlitz Co., W. T.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the middle of February, 1883, by passing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by or do not belong to the said applicant?

Ans. It is not; no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being cut up with creeks and gulches and being stony and broken.

823 Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the facts that is cut up with creeks and gulches and is very stony, and there is a fine body of timber on the same.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

824 I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this sixth day of June, 1883.

S. W. BEALL,
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, W. T. Sec. 34, town. 9 N., range 1 W.

825 *Testimony of witness under act of June 3, 1878.*

GEORGE F. WHITE, being called as a witness in support of the application of Joseph J. Meagher to purchase the northwest ¼ of section 34, township 9, of range one west, testifies as follows:

What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T.; reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the middle of Feb., 1883, by pnssing over it on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not, and has no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony and broken and cut up with streams.

Ques. 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

826 Ans. Nothing to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the rough and broken condition of the land, and it is stony and covered with a good body of timber.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this sixth day of June, 1883.

S. W. BEALL,
Probate Judge, Cowlitz Co., Wash Ter.

827 NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oaths states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 34, township 9 N., range 1 W.

828 No. 2157.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
June 20th, 1883.

Received from Joseph J. Meagher, of Multnomah County, the sum of four hundred dollars and cents, being in full for the northwest quarter of section No. thirty-four, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry, $10.00.

Paid.

$400.00. A. O. MARSH,
Receiver.

(Act June 3, 1878.)

No. 2157. LAND OFFICE AT VANCOUVER, W. T.,
June 20th, 1883.

Itis hereby certified that, in pursuance of law, Jpseph J. Meagher, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the northwest quarter of section No. 34, in township No. 9 north, of range No. 1 west, of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Joseph J. Meagher has made payment in full as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said Joseph J. Meagher shall be entitled to receive a patent for the lot abode described.

FRED. W. SPARLING,
Register.

(Act of June 3, 1878.)

829 (Endorsed:) No. 2157. Cash entry. Land office at Vancouver, Wash. Ter., sec. 34, town. 9, N., range 1 W. Held for cancellation by letter "P." April 15, 1886. H. H. J. Hearing ordered Aug. 11, /86. H. H. J. 1 N. & W. /60.

(Endorsed:) Case 1813. Plfs. Ex. "A 3." Nov. 22, 1887. Nov. 22, 1887. John W. Cochran, stenographer, referee.

830 "P." H. H. J.
B. B. J.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copy *copies* of Vancouver, W. T., cash certificate No. 2158, in the name of Maurice J. Gleason, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of the General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
March 28th, 1883.

I, Maurice J. Gleason, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northeast quarter of section 34, township 9 north, of range 1 west, do solemnly swear that I am the head of a family and a citizen of the United States by virtue of the naturalization of my father, Patrick M. Gleason, during my minority; that the said land is unfit for cultivation and valuable chiefly
831 for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not, directly or indirectly, made any agreement or contract in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

MAURICE J. GLEASON.

Sworn to and subscribed before me this 28th day of March, 1883.

FRED. W. SPARLING, *Register.*

(Endorsed:) Timber lands, act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 34, township 9 north, range 1 west. Maurice J. Gleason.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Ter-
832 ritory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended to and made a part of this affidavit, has been published in said newspaper for the period

of sixty days, beginning March 30th, A. D. 1883, and ending June 1st' A. D. 1883, both days inclusive, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Subscribed and sworn to before me this 6th day of June, A. D. 1883.
[SEAL.] B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Maurice J. Gleason.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
March 28, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Maurice J. Gleason, of Multnomah County, Oregon, has this day filed in this office his application to purchase the NE. ¼ of section 34, township 9 north of range 1 W. of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883.

833 Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING,
Register.

v3n34m30.

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T.,
June 20th, 1883.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 28th day of March, 1883.

FRED W. SPARLING, *Register.*

(Endorsed:) Register's certificate as to posting of notice in case of Maurice J. Gleason.

834 *Notice of application to purchase timber land.*

LAND OFFICE AT VANCOUVER, W. T.,
March 28th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale

of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Maurice J. Gleason, of Multnomah County, Oregon, has this day filed in this office his application to purchase the NE. ¼ of section 34, township 9 north of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the judge of the probate court at Kalama, Wash. Ter., on Wednesday, the 6th day of June, 1883.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING, *Register.*

v3n34m30.

At a term of the district court in and for the county of Marion, Territory of Oregon, begun and held at the court-house in Salem, in said county, on the 5th day of November, A. D. 1855. Present, Hon. Geo. H. Williams, judge; E. J. Harding, clerk; John McCracken, marshal; Milton Shannon, sheriff. When on November 6th, on the second day of said term, the following proceedings, among others, were had:

This day Patrick M. Gleason came into court, and having made
835 the proofs and taken the oath required by law, is admitted a citizen of the United States.

(Signed.) GEO. H. WILLIAMS,
Judge in the circuit court for the county of Marion, State of Oregon.

STATE OF OREGON,
County of Marion, ss:

I, M. L. Chamberlain, clerk of said court, do hereby certify that the foregoing transcript has been by me carefully compared with and is a true copy and the whole thereof of the original journal entry and order of said court in the matter of the admitting to full citizenship Patrick M. Gleason, as the same appears of record in my office and in my official custody.

In witness whereof I have hereunto set my hand and affixed the seal of said court this 31st day of March, A. D. 1883.

[CIRCUIT COURT SEAL.] M. L CHAMBERLIN, *Clerk.*

(On margin of said proof of citizenship, is the following: "U. S. land office, Vancouver, W. T., March 28th, 1883. I hereby certify that this is a true copy of the orginal.

FRED W. SPARLING, *Register.*

(Endorsed:) Proof of citizenship of Patrick M. Gleason.

Testimony of witness under act of June 3, 1878.

GEORGE F. WHITE, being called as a witness in support of the application of Maurice J. Gleason to purchase the northwest ¼ of section 34, township 9 north of range one west, testifies as follows:

836 Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock; reside at Silver Lake; both in Cowlitz Co., W. T.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the middle of February, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not, and has no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is stony, and cut up with creeks and gulches.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. There are not, to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

837 Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is rough, broken, and stony, and cut up with creeks and gulches, and has a fine body of timber on it.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 6th day of June, 1883.

[SEAL.]

S. W. BEALL,
Probate Judge, Cowlitz Co., Wash. Ter.

NOTE.—The officer before whom the testimony is taken should
838 call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the

Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED. W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands. Act June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 34, township 9 N., range 1 W.

Testimony of witness under act of June 3, 1878.

ROBERT ROCKWELL, being called as a witness in support of the application of Maurice J. Gleason, to purchase the northwest ¼ of section 34, township 9 north, of range one west, testifies as follows:

839

Ques. 1. What is your post-office address and where do you reside?

Ans. Castle Rock, reside at Silver Lake, both in Cowlitz Co., W. T.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the middle of February, 1883, by passing over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes or which were not made by, or do not belong to, the said applicant?

Ans. It is not; no improvements.

Ques. 6. Is it fit for cultivation?

Ans. It is not.

Ques. 7. What causes render it unfit for cultivation?

Ans. Being very rough, broken, and stony, and cut up by gulches and creeks.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None to my knowledge.

Ques. 9. Is the land more valuable for mineral or any other
840 purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. Chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. From the fact that it is stony and cut up by creeks and gulches and that it has a fine body of timber on it.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract in any way or manner with any person whomsoever by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this sixth day of June, 1883.

[SEAL.] S. W. BEALL,
Probate Judge, Cowlitz Co., Wash. Ter.

841 NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved:

FRED W. SPARLING, *Register.*
A. O. MARSH, *Receiver.*

(Endorsed:) Timber lands, act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., sec. 34, township 9 north, range 1 W.

No. 2158. RECEIVER'S OFFICE AT
VANCOUVER, WASH. TER.,
842 *June 20th*, 1883.

Received from Maurice J. Gleason, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the northeast quarter of section No. thirty-four, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for allowing entry $10.00

Paid.
$400.00

A. O. MARSH, *Receiver.*

(Act of June 3rd, 1878.)

No. 2158. LAND OFFICE AT VANCOUVER, W. T.,
June 20th, 1883.

It is hereby certified that, in pursuance of law, Maurice J. Gleason, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office, the northeast quarter of section No. 31, in township No. 9 north, of range No. 1 west, of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollar' and fifty cents per acre, amounting to four hundred dollars and cents, for which the said Maurice J. Gleason has made payment in full as required by law.

Now, therefore, be it known, that on presentation of this certificate to the Commissioner of the General Land Office, the said Maurice J. Gleason shall be entitled to receive a patent for the lot above described.

FRED. W. SPARLING, *Register.*

(Act June 3, 1878. Canceled by letter "P," April 15, 1886. H. H. J.—B. B. S. Chief Div. "P.")

843 No. 2158. Cash entry. Land office at Vancouver, Wash. Ter., sec. 34, town. 9 N., range 1 W. Susp'd. Canceled by letter "P," April 15, 1886. H. H. J.—B. B. S. 1 n & w–60.

(Endorsed:) Case 1813. Plff's. Ex. "A–4." Nov. 22, 1887. John W. Cochran, stenographer, referee.

844 "P."

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., Nov. 5th, 1887.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed copies of Vancouver, W. T.. cash certificate No. 2172, in the name of Martin J. Conroy, and accompanying papers, are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
April 16th, 1883.

I, Martin J. Conroy, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the northwest ¼ of section 26, township 9 north of range 1 W., do solemnly swear that I am above the age of 21 years and a naturalized citizen of the United States; that the said land is unfit for cultivation, and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit, and that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except myself.

845

MARTIN J. CONROY.

Sworn to and subscribed before me this 16th day of April, 1883.
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter. Sec. 26, town. 9 north, range 1 west. Martin J. Conroy.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, also in the adjoining county of Cowlitz, Territory of Washington, and that said notice of application to purchase timber lands, a printed copy of which is appended and made a part of this affidavit, has been published in said newspaper for the period of sixty days, beginning April 20th, A. D., and ending June 22nd, A. D. 1883, both days included, being ten successive issues of said newspaper.

846

Printer's fee, $10.00.

[SEAL.] ENOCH G. ADAMS.

Subscribed and sworn to before me this 20th day of June, A. D. 1883.
B. McB. CAPLES,
Notary Public for Oregon.

(Endorsed:) Proof of publication of notice in case of Martin J. Conroy.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
April 16, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Martin J. Conroy, of Multnomah County, Oregon, has this day filed in this office his application to purchase the northwest ¼ of section 26, township 9 north of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Monday the 25th day of June, 1883. Any and all persons having adverse claims to the above-described land, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n37a20. FRED W. SPARLING, *Register.*

847 *Certificate as to posting of notice.*

LAND OFFICE AT VANCOUVER, W. T.,
July 2nd, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 16th day of April, 1883.

FRED W. SPARLING, *Register.*

(Endorsed:) Register's certificate as to posting of notice in case of Martin J. Conroy.

Notice of application to purchase timber lands.

LAND OFFICE AT VANCOUVER, W. T.,
April 16th, 1883.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," Martin J. Conroy, of Multnomah County, Oregon, has this day filed in this office his application to purchase the northwest ¼ of section 26, township north of range 1 west of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Monday the 25th day of June, 1883. Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

FRED W. SPARLING, *Register.*

848 UNITED STATES OF AMERICA,
State of Missouri, County of St Louis:

In the St. Louis court of criminal correction.

OCTOBER 23RD, 1876.

Martin J. Conroy, a native of Ireland, who applies to be admitted a citizen of the United States, comes and proves to the satisfaction of the court, by the testimony of James Calpin, a credible witness, a citizen of the United States, that he arrived in the United States a minor, under the age of eighteen years, that he has resided in the United States at least five years, including the years of his minority, and in the State of Missouri at least one year immediately preceding this application, during which time he has conducted himself as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the order and happiness of the same, and the said applicant declaring here in open court, upon oath, that for three years last past, it has been bona fide his intention to become a citizen of the United States, and he declaring also upon oath that he will support the Constitution of the United States, and that he doth absolutely renounce and abjure forever all allegiance and fidelity to every foreign power, prince, potentate, state, or sovereignty whatever, and particularly to the Queen of Great Britain and Ireland, of whom he is at present a subject; therefore the said Martin J. Conroy is admitted a citizen of the United States.

849 STATE OF MISSOURI,
County of St Louis, ss:

I, William L. Fitzgerald, clerk of the St. Louis court of criminal correction, within and for the county of St. Louis, certify the foregoing to be a true transcript of the order of said court touching the naturalization of Martin J. Conroy, as the same now remains of record in my office.

In testimony whereof I hereunto set my hand and affix the seal of said court at office in the city of St. Louis, this twenty-third day of October, in the year of our Lord eighteen hundred and seventy-six.

[CRIMINAL CORRECTION COURT SEAL.] WM. L. FITZGERALD,
Clerk.

On margin of the above order is the following, to wit: U. S. Land office, Vancouver, W. T., April 16th, 1883. I hereby certify that this is a true copy of the original. Fred W. Sparling, Register.

(Endorsed:) Proof of citizenship of Martin J. Conroy.

Testimony of witness under act of June 3, 1878.

NICHOLAS KLEIN, being called as a witness in support of the application of Martin J Conroy, to purchase the northwest ¼ of section 26, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?
Ans. Castle Rock, Cowlitz Co., W. T.

Ques. 2. What is your occupation?

Ans. Am a farmer.

850 Ques. 3. Are you acquainted with the land above described by personal inspection of each of its smallest legal subdivisions?

Ans. Yes, sir.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 10th of March, 1883, by going over the land on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. The land is rocky and hilly, and is cut up with creeks and gulches.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable.

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

851 Ans. The land is too rocky and broken and the soil is too poor for purposes of cultivation, and there is a good body of timber on the same.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. No, sir.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. No, sir.

NICHOLAS KLEIN.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of July, 1883.

FRED. W. SPARLING,
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes,

and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

852 SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

(Endorsed:) Timber lands act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter., section 26, township 9 N., range 1 W.)

Testimony of witness under act of June 3, 1878.

ALEXANDER MILLER, being called as a witness in support of the application of Martin J. Conroy, to purchase the northwest ¼ of section 26, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address and where do you reside?

Ans. North Yamhill, Yamhill Co., Oregon.

Ques. 2. What is your occupation?

Ans. Am a farmer.

853 Ques. 3. Are you acquainted with the land above described by personal inspection of each it' smallest legal subdivisions?

Ans. Yes, sir.

Ques. 4. When and in what manner was such inspection made?

Ans. On the 29th of June, 1883, by walking over the land.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on the land.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. The land is rocky, broken, and is cut up with ravines and gulches.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land? If so, state what they are, and whether the springs or mineral deposits are valuable?

Ans. None that I know of.

Ques. 9. Is the land more valuable for mineral or any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. The land is too rocky, broken, and is too much cut up with
854 gulches and ravines to be cultivated, and there is good timber on the same.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ALEXANDER MILLER.

I hereby certify that witness is a person of respectability, that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 2nd day of July, 1883.

FRED. W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

855 SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

(Endorsed:) Timber lands. Act June 3, 1878. Testimony of witness Land office at Vancouver, Wash. Ter., section 26, township 9 N., range 1 W.

No. 2172.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
July 2nd, 1883.

Received from Martin J. Conroy, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the northwest

quarter of section No. twenty-six, in township No. nine north, of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre. Fees for allowing entry, $10.00. Paid. Fees for reducing testimony to writing, $2. 25. $400.00.

A. O. MARSH, *Receiver.*

Act June 3, 1878.

856 No. 2172. LAND OFFICE AT VANCOUVER, W. T.,
July 2nd, 1883.

It is hereby certified that, in pursuance of law, Martin J. Conroy, residing at Portland, in Multnomah County, State of Oregon, on this day purchased of the register of this office the northwest quarter of section No. 26, in township No. 9 north, of range No. 1 west, of the Will. principal meridian, Wash. Ter., containing 160 acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and blank cents, for which the said Martin J. Conroy has made payment in full, as required by law.

Now, therefore, be it known that on presentation of this certificate to the Commissioner of the General Land Office the said Martin J. Conroy shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING,
Register.

(Act June 3, 1878.)

(Endorsed:) No. 2172. Cash entry. Land office at Vancouver, Wash. Ter., sec. 26, town. 9, range 1 W. Held for cancellation by letter "P". April 15, 1886. H. H. J. Hearing ordered Aug. 11, '86. H. H. J. Approved Nov. 9th, '85, by N. D. B. Ex. clerk. Division "C".

(Endorsed:) Case 1813. Plfs. Ex. "A–5." Nov. 22, 1887. John W. Cochran, stenographer, referee.

857 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Nov. 17th, 1885.

I, Wm. A. J. Sparks, Commissioner of the General Land Office, do hereby certify that the annexed timber land application and proof under the act of June 3rd, 1878, in the name of David E. Budd, for the SE. ¼ section 12, tp. 9, R. 1 W., Will. mer'd., W. Ty., are true and literal exemplifications of the originals on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

WM. A. J. SPARKS,
Commissioner of General Land Office.

Sworn statement under act of June 3, 1878.

LAND OFFICE AT VANCOUVER, W. T.,
Aug. 23rd, 1882.

David E. Budd, of Multnomah County, Oregon, desiring to avail myself of the provisions of the act of Congress of June 3, 1878, entitled

"An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," for the purchase of the southeast ¼ of section 12, Tp. 9 N., R. 1 W., do solemnly swear that I am the head of a family and a native-born citizen of the United States; that the said land is unfit for cultivation and valuable chiefly for its timber; that it is uninhabited; that it contains no mining or other improvements
857a whatever, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper, or coal; that I have made no other application under said act; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; and that I have not directly or indirectly made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself.

DAVID E. BUDD.

Sworn to and subscribed before me this 23rd day of August, 1882.

FRED W. SPARLING,
Register.

(Endorsed:) Timber lands. Act of June 3, 1878. Sworn statement. Land office at Vancouver, Wash. Ter., sec. 12, township 9 north, range 1 west. David E. Budd.

Notice of application to purchase timber land.

LAND OFFICE AT VANCOUVER, W. T.,
August 23rd, 1882.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3rd, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," David E. Budd, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast ¼ of section 12, township 9 north, of range 1 west of the Willamette
857b meridian. Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, Nov. 10th, 1882. Any and all persons having adverse claims to the above described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25

FRED W. SPARLING,
Register.

STATE OF OREGON,
County of Columbia, ss:

I, Enoch G. Adams, being duly sworn, depose that I am the publisher of the Columbian, a weekly newspaper published at St. Helen, Columbia County, Oregon, and that said newspaper has a general circulation in said county and State, and also in the adjoining county of Cowlitz, Washington Territory, and that said notice of application to purchase timber land, a printed copy of which is appended and made a part of this affidavit, has

been published in said newspaper for the period of sixty days, beginning Sept. 8th, A. D. 1882, and ending Nov. 10th, A. D. 1882, both days included, being ten successive issues of said newspaper.

Printer's fee, $10.00.

ENOCH G. ADAMS.

Sworn to and subscribed before me this 13th day of November, A. D. 1882.

[SEAL.] W. H. CONEYERS, *Co. Clk.*

(Endorsed:) Proof of publication of notice in case of David E. Budd.

857c *Notice of application to purchase timber land.*

LAND OFFICE AT VANCOUVER, W. T., *August 23rd*, 1882.

Notice is hereby given that, in compliance with the provisions of the act of Congress approved June 3, 1878, entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," David E. Budd, of Multnomah County, Oregon, has this day filed in this office his application to purchase the southeast ¼ of section 12, township 9 north, of range 1 west, of the Willamette meridian.

Testimony in the above case will be taken before the register and receiver at Vancouver, Wash. Ter., on Friday, November 10th, 1882.

Any and all persons having adverse claims to the above-described lands, or any portion thereof, are hereby required to file their claims in this office within sixty (60) days from date hereof.

v3n3a25. FRED W. SPARLING, *Register.*

Certificate as to posting of notice.

LAND OFFICE AT VANCOUVER, W. T., *November 10th*, 1882.

I, Fred W. Sparling, register, do hereby certify that a notice, a printed copy of which is hereto attached, was by me posted in a conspicuous place in my office for a period of sixty days, I having first posted said notice on the 23rd day of August, 1882.

FRED W. SPARLING, *Register.*

(Endorsed:) Register's certificate as to posting of notice in case of David E. Budd.

858 *Testimony of witness under act of June 3, 1878.*

ROBERT ROCKWELL, being called as a witness in support of the application of David E. Budd to purchase the southeast ¼ of section 12, township 9 north, of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 1st of November, 1882, by going over it on foot.

Ques. 5. Is it occupied, or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and there are no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfot for cultivation?

Ans. It is cut up with ravines and is stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they
859 are, and whether the springs or mineral deposits are valuable?

Ans. No, sir.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It has a fine body of timber on it, and the surface is too rough for cultivation.

Ques. 11. Do you know whether the applicant has directly or indirectly made any agreement or contract, in any way or manner with any person whomsoever, by which the title which he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Ans. I do not.

Ques. 12. Are you in any way interested in this application or in the lands above described, or the timber, or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

ROBERT ROCKWELL.

I hereby certify that witness is a person of respectability, that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

860 FRED W. SPARLING, *Register*.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or

certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 12, township 9 north, range 1 west.

Testimony of witness under act of June 3, 1878.

861 GEORGE F. WHITE, being called as a witness in support of the application of David E. Budd to purchase the southeast ¼ of section 12, township 9 north of range 1 west, testifies as follows:

Ques. 1. What is your post-office address, and where do you reside?

Ans. Castle Rock, Cowlitz Co., W. T., and reside at Silver Lake, in said county.

Ques. 2. What is your occupation?

Ans. Farmer.

Ques. 3. Are you acquainted with the land above described by personal inspection of each of it' smallest legal subdivisions?

Ans. I am.

Ques. 4. When and in what manner was such inspection made?

Ans. About the 15th of August, 1882, by passing over the land on foot.

Ques. 5. Is it occupied; or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Ans. It is not occupied, and has no improvements on it.

Ques. 6. Is it fit for cultivation?

Ans. No, sir.

Ques. 7. What causes render it unfit for cultivation?

Ans. It is broken and stony.

Ques. 8. Are there any salines, or indications of deposits of gold, silver, cinnabar, copper, or coal on this land; if so, state what they are,
862 and whether the springs or mineral deposits are valuable.

Ans. There is not to my knowledge.

Ques. 9. Is the land more valuable for mineral or other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone?

Ans. It is chiefly valuable for timber.

Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Ans. It is stony and broken, and unfit for farming purposes; it has a good body of timber on it.

Ques. 11. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which he may acquire from the

Government of the United States may inure, in whole or in part, to the benefit of any person except himself?

Ans. No, sir.

Ques. 12. Are you in any way interested in this application, or in the lands above described, or the timber or stone, salines, mines, or improvements of any description whatever thereon?

Ans. I am not.

GEORGE F. WHITE.

I hereby certify that witness is a person of respectability; that each question and answer in the foregoing testimony was read to him before he signed his name thereto, and that the same was subscribed and sworn to before me this 10th day of November, 1882.

863 FRED W. SPARLING, *Register.*

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

TITLE LXX.—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states and subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at *ahrd* labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See S. 1750.)

Approved.

FRED W. SPARLING, *Register.*
S. W. BROWN, *Receiver.*

(Endorsed:) Timber lands. Act of June 3, 1878. Testimony of witness. Land office at Vancouver, Wash. Ter. Section 12, township 9 north, range 1 west.

864 No. 2033.

RECEIVER'S OFFICE AT VANCOUVER, WASH. TER.,
November 10*th*, 1882.

Received from David E. Budd, of Multnomah County, Oregon, the sum of four hundred dollars and cents, being in full for the southeast quarter of section No. twelve, in township No. nine north of range No. one west, Will. mer., containing one hundred and sixty acres and hundredths, at $2.50 per acre.

Fees for reducing testimony to writing, $3.15.

Fees for allowing entry, $10.00.

Paid.

$400.00.

S. W., *Receiver.*

(Act June 3, 1878.)

No. 2033. LAND OFFICE AT VANCOUVER, W. T.,
Nov. 10th, 1882.

It is hereby certified that, in pursuance of law, David E. Budd, Cowlitz County, Wash. Ter., on this day purchased of the register of this office the southeast quarter of section No. (12) twelve, in township No. 9 north of range No. one west, Will. mer., containing one hundred and sixty acres, at the rate of two dollars and fifty cents per acre, amounting to four hundred dollars and cents, for which the said David E. Budd has made payment in full, as required by law.

Now therefore be it known, that on presentation of this certificate to the Commissioner of the General Land Office the said David E. Budd shall be entitled to receive a patent for the lot above described.

FRED W. SPARLING, *Register*.

(Act June 3, 1878.)

865 (Endorsed:) No. 2033. Cash entry. Land office at Vancouver, Wash. Ter. Sec. 12, town. 9 N., range 1 west. Approved M'ch 3, 1883. Ex Castle. *Approved M'ch* 3, 1883. *Ex Castle*, clerk. Patented May 5th, 1883. Recorded Vol. 4, page 406. 1n&w—27.

(Endorsed:) Pl'fs Ex. "A 6." Offered last, without objection, Nov. 22, 1887. John W. Cochran, stenographer. Referee. Certified copy of timber land application & proof of David E. Budd, for the SE. ¼, Sec. 12, Tp. 9 N., R. 1 W., Wash. Ty.

866 Certificate to transcript.

UNITED STATES OF AMERICA,
District of Washington, Western Division, ss:

I, A. Reeves Ayres, clerk of the circuit court of the United States for the district of Washington, do hereby certify the writings hereto attached to be a true transcript of the record, proceedings, and exhibits in case number 23, of the United States of America, plaintiff, against David E. Budd and James B. Montgomery, defendants, as fully as the same remain on file and of record in said case in my office.

In witness whereof I hereunto subscribed my name and affix the seal of said court at my office in the city of Tacoma in said district, this 28th day of August, in the year of our Lord one thousand eight hundred and ninety-one.

A. REEVES AYRES,
Clerk of said Court.

(Indorsement on cover:) Supreme Court U. S. Received Sep. 4, 1891. Clerk's office. Case No. 14865. No. 1391. The United States, appellant, *vs.* David E. Budd and James B. Montgomery. Washington, C. C. U. S. Filed September 28, 1891.

Office Supreme Court U. S.
FILED.
JAN 27 1892
JAMES H. McKENNEY,
CLERK.

In the Supreme Court of the United States.

OCTOBER TERM, 1891.

THE UNITED STATES, APPELLANT,
vs.
DAVID E. BUDD AND JAMES B. Montgomery.
No. 1391.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

BRIEF FOR APPELLANT.

In the Supreme Court of the United States.

OCTOBER TERM, 1891.

THE UNITED STATES, APPELLANT,
vs.
DAVID E. BUDD AND JAMES B. Montgomery. } No. 1391.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

BRIEF FOR APPELLANT.

STATEMENT.

This is an appeal from the circuit court of the United States for the district of Washington. The suit was brought in the district court of the second judicial district of the Territory of Washington, the amended bill of complaint, upon which the issues are founded, being filed as of April 23, 1887 (Rec., pp. 12, 13).

The trial was commenced at the November term of the court, 1887 (p. 77), and was concluded at the April term,

1888 (p. 222), whereupon in November, 1888, a decree was entered in said Territorial court against the United States, and dismissing the action, and plaintiff was duly allowed an exception to such decree (p. 35).

Appeal was duly taken and allowed to the supreme court of Washington Territory (p. 33), and the evidence and exhibits in the case were duly transmitted in pursuance of such appeal (p. 36). By the admission of the State of Washington into the Union said case became transferred to the circuit court of the United States for the district of Washington, and it was heard and determined upon the aforesaid appeal (pp. 37, 38). The judge of said circuit court took the case under consideration, and filed his opinion thereon and a decree therein August 20, 1890 (pp. 36–47), and by said decree it is "ordered, adjudged, and decreed by the court that the bill of complaint herein be, and the same is, dismissed."

Whereupon an appeal was taken from such decree to the Supreme Court of the United States, which was duly allowed (p. 48), and an affidavit was filed that the value of the land in controversy in this action is and has remained during the pendency of said suit in the circuit court of greater value than $5,000, said affidavit being filed *nunc pro tunc*, as of the date of August 20, 1890 (p. 49).

THE BILL OF COMPLAINT.

The amended complaint (pp. 13–17) alleges:

That on and before August 23, 1882, plaintiff was the owner of certain lands in Cowlitz County, being the southeast quarter of section 12, in township 9 north, of range 1

west, Willamette meridian, in the district of lands subject to sale at the United States land office at Vancouver, Washington Territory. That said lands had prior thereto been offered and surveyed lands of the public domain of the United States, and subject to entry and settlement under the preemption and homestead laws of the United States, all of which defendants well knew.

That said lands were and are agricultural lands, valuable chiefly for agricultural purposes, and not valuable chiefly for timber or stone, all of which defendants well knew.

That on said August 23, 1882, defendant, David E Budd, pretending to be desirous of obtaining lands under the act of June 3, 1878, with the knowledge, at the instignation and in the interest of the defendant, James B. Montgomery, fraudulently filed with the land register written statements falsely setting forth that the land aforesaid was unfit for cultivation and valuable chiefly for its timber, and that he did not apply to purchase said land on speculation, but in good faith to appropriate to his own exclusive use and benefit; and that he had not directly or indirectly made any agreement or contract in any way or manner by which the title he might acquire from the United States should inure to the benefit of any other person; which statements were verified by the oath of the said Budd. That all of said averments were false and fraudulent as said Budd well knew.

That Budd did not intend to appropriate said land to his own use.

That he had theretofore unlawfully made an agreement with the defendant Montgomery by which such title as

he might acquire from the United States should inure to the benefit of Montgomery.

That said lands were agricultural in character, fit for cultivation, and valuable chiefly for agricultural purposes, and not at any time valuable chiefly for its timber.

That November 10, 1882, testimony was taken in the matter of said application before the register of the land office at Vancouver.

That Robert Rockwell and George F. White falsely testified upon such hearing as to the quality and character of said land, and as to its being chiefly valuable for timber, and as to its fitness or unfitness for cultivation.

That by means of said false and fraudulent proceedings said Budd entered said land and finally obtained a patent thereof.

That previous to the issue of said patent said Budd, in pursuance of the fraudulent agreement aforesaid, deeded said land by a pretended warranty deed to said Montgomery, and that said Montgomery fraudulently asserts title to said land by virtue of said pretended conveyance.

That the land in controversy is of the value of $5,000.

The plaintiff prays for relief, among other things:

(1) That the defendants be required to answer, etc.

(2) That the patent issued to defendant Budd and the pretended deed given by Budd to defendant Montgomery for said lands be declared null and void and be vacated and set aside.

THE ANSWERS.

The defendants Budd and Montgomery answer separately (pp. 17–30), and at length and by their amended

answers to the amended bill of complaint, in substance and effect, deny the allegations and charges of said bill of complaint and deny all wrongdoing and unlawful action in the premises.

Said answers also allege that the lands in controversy were subject to entry and purchase as timber land under the act of June 3, 1878.

And that by reason of legislation relating to railroad grants and action thereunder said lands were not offered lands, but were subject to entry and purchase as timber lands under the act aforesaid.

And that said lands were subject to private entry and sale at $2.50 per acre therefor; and that said Budd received a patent therefor and paid to the United States $400, which had not been repaid or offered to be returned.

Said amended answers also allege that said lands were and are valuable chiefly for timber, and are unfit for cultivation.

And said amended answers are duly replied to in accordance with the requirements of the practice of the court.

ASSIGNMENTS OF ERROR.

(1) The court erred in holding that the lands in controversy were, at the date of the act of June 3, 1878, unoffered lands, and that therefore a sale thereof under said act was lawful.

(2) That the court erred in holding that this land is of a description which can be disposed of under said act, because it is not chiefly valuable for timber or stone, and unfit for cultivation, but is valuable for agricultural pur-

poses. And the court also erred in holding that the defendant Budd, in making his proof before the land office, did not procure the giving of false testimony as to the character of the land in this respect.

(3) That the court below erred in not finding and holding that the defendant, Budd, before he applied to purchase the land, had made an agreement with his co-defendant, Montgomery, to transfer to the latter the title which he should obtain, and that he did not apply to purchase the land for his own use, or in good faith to appropriate it to his own exclusive use and benefit, and that the affidavit which he made to the effect that he had not made any agreement or contract whereby the title which he should obtain should inure to any person other than himself was in these particulars false: and that the grant to him was, under the conditions of the act of June 3, 1878, void and of no effect.

(4) The court below erred in dismissing the bill of complaint in this suit, and in rendering judgment against the United States in said suit; and erred in not declaring the patent issued to the defendant, Budd, and the deed given by said Budd to defendant Montgomery null and void.

The two principal questions arising in the case are—

First. Is there such a combination or conspiracy shown to have existed to obtain this, or this and other timber lands for the defendant, Montgomery, as authorizes the annulment of the patent issued to defendant Budd?

Second. Is land of the character and description of this quarter section subject to entry and purchase under the "timber and stone act" of 1878?

THE ACT OF 1878.

The "timber and stone act" of June, 1878 (20 Stat., 89), provides, by section 1—

> That surveyed public lands * * * valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold * * * in quantities not exceeding one hundred and sixty acres to anyone * * * at a minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands.

Section 2, so far as it is applicable to the case at bar, is as follows:

> SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement, in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation and valuable chiefly for its timber or stone; * * * that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit, and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which

statement must be verified by the oath of the applicant before the register or the receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for such lands and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, shall be null and void.

The third section of said act so far as here applicable is as follows:

SEC. 3. That upon the filing of said statement * * * the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office for a period of sixty days, and a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence; first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act * * *, and upon payment to the proper officer of the purchase money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and on the transmission to the General Land Office of the papers and testimony in the case a patent may issue thereon.

POINTS.

I.

IT IS SUBMITTED THAT THE EVIDENCE SHOWS THAT THE LANDS IN CONTROVERSY, WITH OTHER LANDS, WERE ENTERED UNDER THE ACT OF 1878 AS PART OF A PROJECT AND SCHEME THEN EXISTING TO TRANSFER THE TITLE TO SAID LANDS FROM THE UNITED STATES TO THE DEFENDANT, MONTGOMERY.

It will be noted that neither defendant Budd nor defendant Montgomery, nor either of the supporting witnesses of the applications, George F. White and Robert Rockwell, appeared as witnesses upon the trial of this case:

The opinion of the court states (fol. 96) that—

> The record shows that it is conceded that Budd's application to enter this land was made on the 23d day of August, 1882, and he made his proofs and paid for the land, and a receiver's receipt was issued to him on the 10th of November, 1882, and that on the 8th day of December, 1882, he executed and delivered a deed of the land to defendant Montgomery, and the patent conveying the land to Budd was issued on the 5th day of May, 1883.

The following schedule, made up from the record, is submitted to the inspection of the court:

The record also shows that James B. Montgomery and Edward W. Bingham, of Multnomah County, Oregon, made, respectively, August 21, 1882, timber entries under

the act of 1878 upon portions of said township No. 9, the witnesses in each case being George F. White and George W. Taylor.

The record also shows that the acknowledgment of all of the deeds mentioned in the schedule as running to defendant Montgomery took place in Multnomah County, Oregon, and in all cases but two the acknowledgments were before E. W. Bingham, or Ed. W. Bingham, as the notarial officer.

All of the lands mentioned in the schedule, except the lot deeded to Montgomery by William D. O'Regan, are portions of township No. 9, and said Regan lot is a portion of township No. 10.

A schedule of lands obtained under the act of 1878, in the names of divers individuals specified, and conveyed by deed to defendant Montgomery as shown by the record.

All of these individuals except Harmans, Mangs, and Taylor are stated to be residents of Multnomah County, Oregon.

Name.	Date of statement under act.	Names of witnesses.	Date of payment to U. S.	Date of deed to Montgomery.
David E. Budd	1882. Aug. 23	George F. White and Robert Rockwell.	1882. Nov. 10	1882. Dec. 4
John W. Steffen	do	do	do	1883. Feb. 27
Alvin B. Hastings	do	do	do	1882. Nov. 17
Charles C. Carnell	do	do	do	Dec. 11
Charles H. Harmans	Sept. 29	do	Dec. 13	Dec. 15
John Mangs	do	do	do	Do.
George W. Taylor	do	do	Dec. 14	Dec. 13
Allen A. Unkless	1883. Jan. 10	do	1883. Mar. 17	1883. May 1
James K. Misner	do	do	do	Do.
George M. Misner	do	do	do	Do.
Hamilton Knott	Mar. 24	do	June 2	June 27

Name.	Date of statement under act.	Names of witnesses.	Date of payment to U. S.	Date of deed to Montgomery.
	1883.		1883.	1883.
Zeba M. La Rue	Mar. 24	George F. White and Robert Rockwell.	June 2	June 14
James L. Jewett	do	do	do	June 27
William A. Freeman	Mar. 22	do	June 15	June 22
Michael H. McManus	do	do	June 16	June 26
Mark Woods	do	do	do	June 23
Alexander Lothian	do	do	do	Do.
Robert Dooing	Mar. 27	do	do	Do.
Joseph Hughs	do	do	do	Do.
William D. O'Regan	Mar. 22	do	June 20	June 27
Joseph J. Meagher	Mar. 28	do	do	Do.
Martin Conroy	Apr. 16	Nicholas Klein and Alexander Miller.	July 2	June 26

The land in question is west of the Cascade Mountains, and is about a mile and a half from Silver Lake, or Toutle Lake, as the same is called on Government maps.

Budd and Montgomery were residents of Portland, Oregon (p. 78).

Budd carried on a stock stable there (p. 84).

In September, 1885, Budd said to the United States special agent of the General Land Office (witness Mundy) that he had taken up the land for his own benefit; that he had not sold it to anybody, but still held it; that he was not sure he had ever seen this tract of land, but he had once gone to the neighborhood for that purpose (p. 85); said that the land was "in soak" (p. 105).

Witness Mundy claims that defendant Montgomery had caused to be entered of the timber lands around Silver Lake over 10,000 acres (p. 86).

It will be noted that Budd paid for the land $2.50 per acre, and that his deed to Montgomery shows its conveyance for a nominal sum, while the affidavit of value upon

this appeal shows it to be worth $5,000, or over $31 per acre. Montgomery's acts in seeking to procure the lands about Silver Lake are further shown (folio 189, p. 87), and his appearance in sixteen contested cases at the land office is shown (pp. 89, 93).

The application witness, George F. White, is shown to have admitted that he was examining timber lands and reporting to Montgomery (folio 205, p. 95).

The witness Tipperry shows that Montgomery, in 1882, solicited him to take a timber claim and offered to pay him $100 for his right and expenses (pp. 122, 123).

In July of the same year Montgomery offered the witness Bullock a bonus of $100 if he would take a specified lot under the timber act.

July 25, 1882, Edward J. Searls made his sworn statement under the act of 1878, to take up the S. ½ of the NW. ¼ and N. ½ of SW. ¼ of sec. 8 of said T. 9 (p. 227, 228).

In the spring or summer of 1882 George F. White told Searls that if he would take the land and give a deed to Montgomery he would pay Searls $125.

It appears that Searls got the land and Montgomery gave him the $412 to pay into the land office for it, which money was used for that purpose, and Searls deeded the land to Montgomery and received his check for $125.

All of which appears in detail in the record, pages 142 to 146, inclusive.

It is respectfully submitted that the obtaining of timber lands by Montgomery as shown is to be in contravention of the spirit and the letter of the act of June 3, 1878.

The deeds mentioned in the schedule cover over 3,000 acres, and if valued on the basis of the Budd lot valuation would amount to about $100,000.

The value of the timber is shown by the fact that defendant's witnesses depreciate the value of the *land* for agricultural purposes because it will cost so much to remove the timber. Defendant's witness, Ackley, who lives near Silver Lake, 4 or 5 miles from the Budd tract (199), says that the Budd tract is a valuable piece of timber (200); and says that on his own land the largest firs are 10 feet in diameter and the largest cedars 12 feet in diameter (203.)

The witness, George Vincent, says (p. 177): That he saw cedars on the Budd tract 4 feet in diameter, and that if they had a market for the timber there the stumpage would be worth $75 per acre; he also says he saw trees on this land 6 feet in diameter and over 200 feet high (p. 179). Defendants' witness, Walberg (p. 186), estimates that the timber on this lot will make 50,000 feet of lumber per acre.

The court below, in the opinion (p. 44), says of the Budd tract and its timber, that the most convincing testimony of all is a series of 12 photographs taken near the centers of each legal subdivision of the tract, and adds:

> These pictures exhibit with unerring certainty and faithfulness magnificent trees standing so near together as to force each other to grow straight and tall. They satisfy the court that this tract is valuable and desirable for the timber upon it, and also that no man would be willing to subjugate this piece of forest for the mere sake of cultivating it.

It will be noted that Montgomery, Budd, White, Rockwell, and Bingham all fail to take the witness' stand, and refrain from making any denial or explanation of the charges and inferences arising against them upon the trial.

Budd did not know that he had ever seen the land, while Montgomery was active in contending for the titles which he was securing.

While the proofs of conspiracy and combination involving the two defendants is not so direct and full as a complainant might desire to establish, it is yet believed that the judicial judgment upon the facts shown may fairly be that the obtaining of the lands by Montgomery, as shown in the record, including the Budd tract, was in contravention of the provisions of the "timber and stone act," and that the patent and deed now assailed should be declared void.

II.

THE LAND IS NOT OF A DESCRIPTION WHICH CAN BE DISPOSED OF UNDER THIS ACT, BECAUSE NOT CHIEFLY VALUABLE FOR TIMBER OR STONE, AND UNFIT FOR CULTIVATION, BUT IS VALUABLE FOR AGRICULTURAL PURPOSES, AND THE DEFENDANT BUDD, IN MAKING HIS PROOF IN THE LAND OFFICE, PROCURED THE GIVING OF FALSE TESTIMONY AS TO THE CHARACTER OF THE LAND IN THIS RESPECT. (Record, fol. 94.)

The "sworn statement" under the act declares (p. 247) "that said land is unfit for cultivation, and valuable chiefly for its timber."

The witness, George F. White, states (p. 250), in his examination, as follows :

> Ques. 6. Is it (the land in question) fit for cultivation?
>
> Ans. No, sir.
>
> Ques. 7. What causes render it unfit for cultivation?
>
> Ans. It is broken and stony.
>
> * * * * *
>
> Ans. It is chiefly valuable for timber.
>
> Ques. 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?
>
> Ans. It is stony and broken, and unfit for farming purposes; it has a good body of timber on it.

The witness Robert Rockwood testifies to the same effect (p. 251); that the land is unfit for cultivation, because "it is cut up with ravines, and is stony;" that it is chiefly valuable for timber; that "it has a fine body of timber on it, and the surface is too rough for cultivation."

The statute authorizes the sale of lands under the act of 1878, which are (sec. 1) "*valuable chiefly for timber, but unfit for cultivation.*" Both conditions are included.

And the "statement" which initiates the purchase (sec. 2) must be filed, "Setting forth that the *same is unfit for cultivation, and* valuable chiefly for its timber or stone." While it may be admitted that the present value of the timber upon the land is greater than the present or selling value of the land considered separately from the timber standing thereon, yet it is shown by the evidence beyond question or argument that the land, as such, is not "unfit for cultivation," but, on the other hand, it is shown that the land is fit for cultivation as agricultural land. It will

be borne in mind that the timber will be taken off but once, while the agricultural production may be repeated for all time.

(*a*) It is understood that a large number of cases are pending which involve, or may be affected by the construction to be placed by this court upon the language of the act of 1878, quoted above, consequently the construction placed upon the clauses in question by the Interior Department (against which the appellees here contend) will be given with sufficient fullness to show the positions held, and the grounds thereof.

A construction of the act of June 3, 1878, was made in *Spithill* v. *Gowen*, decided by Mr. Secretary Teller May 8, 1883 (2 Pub. Land Dec., 631). The land was located in the Olympia district, Washington.

It is stated that "this act provides (section 1) for the sale of lands 'valuable chiefly for timber, but unfit for cultivation,' at the minimum price of $2.50 per acre," etc.

This decision declares as follows:

> All timbered lands are unfit for cultivation in their natural condition; but if they may be redeemed and made susceptible of cultivation by ordinary farming process, they are not, in my opinion, within the purpose of this act, which was intended to embrace within its provisions timbered tracts only in broken, rugged, or mountainous districts, with soil unfit for ordinary agricultural purposes when cleared of timber. A different construction of the act would subject to its operation immense bodies of heavily timbered land, which need only enterprise and labor for their conversion into fertile fields and flourishing towns.

> The testimony shows that the tract in question, with all the land in that vicinity, is heavily timbered, but does not show that it is unfit for cultivation when cleared of timber. On the contrary, it is shown that neighboring lands of this same general character are cultivated with fair success. A portion of that in question, variously estimated at from 10 to 50 acres, consists of a swamp of rich soil, 8 or 10 acres of which is now fit for pasture and hay (the balance of which may be made so by drainage), and a lake of 4 acres, while the remaining portion is upon a level upland, heavily timbered, with a gravelly and somewhat sandy soil slightly mixed with clay, which, under a large preponderance of testimony, may be converted into farming lands and made fit for cultivation. Such land is not, in my opinion, subject to entry under this act, but must be appropriated under the preëmption and other laws for the disposition of the public lands.

The case of *Spithill* v. *Gowen* appears to be limited somewhat by *Hughes* v. *Tipton* (2 Land Dec., 334), decided February 23, 1884.

Tipton claimed the land under an application filed under the timber-land act of 1878. Hughes claimed it under a subsequent homestead entry.

The views of Mr. Secretary Teller are presented as follows:

> In *Spithill* v. *Gowen* (10 Land Owner, 73) it was held by this Department that the act under consideration contemplated the sale as timber land of such tracts only as had "soil unfit for ordinary agricultural purposes when cleared of timber." To this ruling I adhere, and I may remark, in addition to what was said in that case, that the settlement laws

unquestionably authorize agricultural claims to land covered by timber, and that this act recognizes them in several instances. For example, "nothing herein shall authorize the sale of the improvements of any bona fide settler," and the claimant must prove that "the land is unoccupied and without improvements;" the existence of a valid settlement or improvement is therefore fatal to the timber claim, notwithstanding the land may be nonagricultural. The act evidently discriminates in favor of a bona fide settler, irrespective of the question of the character of the land. Section 4 of the act provides that "nothing herein contained shall prevent any agriculturist from clearing his land or preparing his farm for tillage," and it has all the force of a declaration by Congress that timbered lands are subject to agricultural settlement. Hence the character of the soil at date of entry, apart from the character and value of the trees then covering it, is the true test of its status as agricultural land.

In ruling on Tipton's application, you have held, I observe, that entries under the act of June 3, 1878, "can only be made for land which is *wholly* unfit for cultivation, after the timber has been removed," and you base the ruling on the case last mentioned. This ruling carries that case beyond its letter and spirit, which go no further than to hold that the soil must be "unfit for *ordinary* agricultural purposes," in order to subject it to sale as timber land. Such is the correct standard undoubtedly, and the only one which could be properly adopted in view of the law, which institutes a comparison of values by force of the descriptive terms, "valuable *chiefly* for timber, but unfit for cultivation." A similar comparison is made in the mining law between the value of agricultural and mineral land, and its application is not at all difficult in the administration of either law. For instance, if

> a timber application should cover timbered land whose soil was so thin or so poor, or whose surface was so precipitous, rocky, or broken as to unfit it for raising crops in the ordinary manner and quantity, it would be valuable chiefly for timber. Or, again, if scattered here and there were patches of arable land, but so that they aggregated a less quantity than those parts unfit for cultivation, the tract would be valuable chiefly for timber. But if all, or nearly all, of a 40-acre tract were arable land, it should be segregated from the quantity applied for, provided there were a settler desirous of taking it. The burden of proof must be on the timber applicant where the issue is on the character of the land, for this law is an exception to the general settlement laws, and the person claiming its benefits must show that his case comes within the exception.

In *Rowland* v. *Clemens* (2 Land Dec., 633) Mr. Secretary Teller reviews the decision of Commissioner McFarland (1884).

Clemens claimed land under the timber act. Rowland filed an affidavit alleging that the lands were valuable chiefly for agriculture. On the evidence the Commissioner "holds that the land is chiefly agricultural." The Secretary says:

> On a careful consideration of the testimony, I concur in your opinion. There is much timber on the land, and it is doubtless quite valuable; but nearly all the witnesses agree that the soil is a black loam and susceptible of ordinary cultivation, except in minor portions where it is rocky or steep.

In *Ellis* v. *Moore*, decided by Mr. Secretary Vilas in 1888, a quarter section of land entered under the timber and stone act was involved. (6 Land Dec., 630.)

It is said that:

> It is fairly proven that there are some five or six acres of said land that, if cleared, would be fit for cultivation, and the question is presented whether that fact will warrant the rejection of said timber land application.

The evidence is reviewed, and the following conclusion is stated:

> Tested by the principles announced in said departmental decisions (*supra*), it is quite evident that the land in question is "valuable chiefly for timber, but unfit for cultivation." The homestead entry should, therefore, be canceled so far as the same conflicts with the timber application, or the homestead entry may be relinquished without prejudice.

In *Grove* v. *Crooks* (7 Land Dec., 140) it is held by Mr. Assistant Secretary Muldrow, in 1888, that—

> Since the applicant has failed to show that the land would be unfit for ordinary cultivation if it was cleared of timber, his application must be rejected.

Secretary Vilas holds, in *Reed* v. *Fitzgerald* (8 Land Dec., 159), in 1889, that—

> The fact that land might be cultivated and crops grown thereon would not except it from entry under the act of June 3, 1878, unless it is shown that such crops could be profitably raised.

(*b*) The land entered by Budd is shown to be of about the same character and quality as that under consideration in *Spithill* v. *Gowen*.

It is evident that the soil and surface conditions constituted fair ordinary farming land.

A small part of the northern portion was found to be stony, having loose stones and basaltic rock, and was cut up somewhat with ravines.

The witness Mundy says that 120 or 130 acres of the 160 could be plowed and cultivated (pp. 108, 115 183,), and the same facts appear at page 138 and other places.

Wheat, potatoes, vegetables, oats, fruit, orchard grass, clover, and timothy are shown by complainants' witnesses to have been produced upon similar land in the immediate vicinity (pp. 81, 82, 99, 106, 107, 114, 121, 127, 134, 137, 139). The soil was a clay loam (pp. 80, 97, 98, 147, 221).

Defendant's witnesses make considerable contradiction; but it appears, nevertheless, from the whole case that the lands are to be fairly held to be second-class, ordinary farming lands, with its timber growth unremoved.

Defendant's witness, Habersham, says (p. 181) that he found that the soil in the timber "was a rich dark loam, thin."

That the compass staff "was scarcely made to penetrate more than 5 or 6 or 8 inches." It then struck rock.

The witness shows (p. 182) that the rock is basaltic rock, and that decomposed basaltic rock makes good soil, and that this soil was "grass on top, decayed vegetable mold, and part earth over this rock—decomposed basalt rock."

Defendant's witness, Walberg, speaks (p. 188) of raising from a ton to a ton and a half of clover upon similar land.

This land is not only not unfit for cultivation, but it is clearly shown to be land that is capable of and fit for ordinary cultivation.

The judge, in giving the opinion below, not only avails himself of the testimony taken, but also of his knowledge of the lands of the State and of their condition and productions.

He says (fol. 105), speaking of the testimony offered on behalf of Budd and Montgomery—

> Thirteen witnesses were called who testified that the soil is stony and inferior for farming purposes; that it contains excellent fir and cedar timber, besides hemlock and an undergrowth of various shrubs and brush; that the trees are large, tall and straight, and sound, and will yield from 50,000 to 150,000 feet of the best quality of lumber per acre, and this testimony and estimate is not controverted. The field notes made by the Government survey at the time of surveying the land, more than twenty-five years ago, describe the land as being stony and second rate.

Earlier in the opinion he describes the bottom and alluvial lands of West Washington. He there says that the most valuable timber grows upon hilly and stony land. He adds (fol. 103) that—

> The soil of such timber lands is not so rich and will not yield so abundantly as that which I have previously described, yet will, when cultivated, produce the same kind of crops after removal of the valuable timber, and while the stumps remain it is readily convertible into pasture, but is unfit for cultivation because it can not be *at once made tillable* without an expense greater than its value for agricultural purposes.

He also says at the foot of page 42 that—

> For the production of valuable timber, strength and fertility of the soil and conditions favorable for the growth of vegetation are necessary, and there are no timber lands in this State which will not, after the timber has been removed, yield crops of vegetation, grains, and fruit.

It thus appears that the judge who wrote the opinion below seeks to establish that land that is "stony and inferior for farming purposes," and land that is "stony and second rate," and land that will, after the removal of the timber, when cultivated, produce the same kind of crops as the best lands in the State, and land which is readily convertible into pasture while the stumps remain, and land which now shows a fertility capable of producing a wonderful timber growth," in a State of which this judge says, that "there are no timber lands in this State which will not, after the timber has been removed, yield crops of vegetation, grains, and fruit," is first, valuable chiefly for timber; second, unfit for cultivation; third, subject to entry and purchase under the timber act of 1878.

It is a singular deduction that the amount and value of the timber (which the strength of the soil has produced upon lands that would clearly be agricultural if this timber did not exist) is such that under the law the land becomes not only valuable chiefly for timber, but unfit for cultivation.

It is submitted with great confidence that the facts cited, found by the court and incorporated in the opinion,

are sufficient to show the land fit for cultivation, and incapable of lawful entry under the act of 1878.

(c) It is respectfully submitted that the construction placed upon the statute by the decisions of the Interior Department is in accordance with the intent of Congress, and is reasonable and just and should be accepted as applicable to the case at bar.

Under this construction it is beyond question that the land obtained by Budd was and is agricultural land, not land "unfit for cultivation," and that the patent and all acts and proceedings which led up to it were unauthorized, illegal, and void.

A. X. PARKER,
Assistant Attorney-General.

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Supreme Court of the United States.

OCTOBER TERM, 1891.

No. 1,391.

THE UNITED STATES, Appellant,

vs.

DAVID E. BUDD and JAMES B. MONTGOMERY, Appellees.

Brief and Argument of Jefferson Chandler for Appellees.

IN THE

Supreme Court of the United States.

October Term, 1891. No. 1,391.

THE UNITED STATES, APPELLANT,

vs.

DAVID E. BUDD AND JAMES B. MONTGOMERY, APPELLEES.

This is a proceeding in equity to set aside the patent for the land described in the bill and to forfeit the title thereto and the money paid therefor. The reasons set up in said bill praying for said forfeiture of title and money are that the said patent was fraudulently obtained, and that the land described in the patent was not of the character of land authorized to be sold by the law under which said patent was issued. It is alleged in said bill that defendant Budd on the 23d of August, 1882, filed an application to purchase said land; that he stated in his affidavit accompanying said application, as the law required, that he applied to purchase said land in good faith, intending to appropriate it to his own exclusive use and benefit.

Second. That said land at the time of the application was not fit for cultivation and was valuable chiefly for its timber.

Third. That the land contained no improvements.

The Government in the bill negatives these statements made in the affidavit and declares them to be

false, and for that reason asks that the patent be set aside.

The court below, on all the evidence offered by the Government, decided the case for the defendants, whereupon an appeal was taken to this court.

Points and Authorities.

The grounds of forfeiture of the title to the land described in the bill and the money paid therefor are set up in section two of the act of June 3, 1878, found on page thirty-nine of the record, which declares that the application made under said law shall contain the statements above mentioned, "and that if any person taking such oath (speaking of the oath to the application) shall swear falsely in the premises he shall be subject to all the pains and penalties of perjury and shall forfeit the money which he has paid for said lands and all right and title to the same, and any grant or conveyance which he may have made, except in the hands of *bona fide* purchasers, shall be null and void."

The bill attacks the patent on the additional ground that the land described in the patent had been previously offered for sale. This is not one of the grounds of forfeiture of the title or money set up in the act. It is respectfully submitted that it is immaterial for the purposes of this case. Inasmuch as the Government is applying for a forfeiture of the title under a specific act of Congress which makes the forfeiture dependent on the certain alleged false statements contained in the affidavit, the inquiry must be confined to such statutory grounds of forfeiture, otherwise the penalties described in the said act might be visited upon the defendants for an act on their part not denounced by the statute at all. The statute does not require the defendant to state in his affidavit whether the land he seeks to purchase had been previously offered for sale

by the Government or not. The records of the Government are the highest evidence of this fact, and therefore the Government is not dependent for its knowledge of that fact upon anything that the applicant to purchase the land might say about it. For this reason the inquiry whether said land had previously been offered for sale is an inquiry which the Government settles for itself from its own records without inviting any statements of the applicant to be made in respect of it. It is, therefore, clear from the act itself that the Government reserves the decision of that question to its own officers, and the most that can be said of it, is that if the land described in the patent was not saleable for this reason, the Government officers erred in offering it for sale, and in passing upon the application to buy it.

The Government cannot visit upon the defendants the penalties denounced by the second section of said statute, because of any error of fact by officers of the Government relating to said sale and not contributed to by the defendant, which fact was not required to be stated by the defendant in the affidavit. The falsity of the affidavit alone justifies, in law, the imposition of said penalties. The court below held that the land described in the patent was not affected by said allegation, in the bill, that it had been previously offered, because it was in the body of land composing the grant to the Northern Pacific Railroad Company. It is urged, however, in addition to the finding of the court below that it is not a ground of forfeiture under the statute whose administration the Government is seeking in this case, and it cannot be coupled in a proceeding under that statute with the other matters in the bill to forfeit the land and the money. The ground of forfeiture which that statute prescribed are exclusive in this suit.

The Agreement of Sale by the Applicant which Works a Forfeiture of the Title and Money must be Shown to have been made before the Application to Purchase from the Government.

The statute does not leave the matter of time within which the condemned instrument must not be made in doubt. It requires the applicant to swear in his application that he had not made at the time of making his application the inhibited agreement. The alleged false statement in the application must be flatly contradicted to constitute perjury. The Government must show by allegation and proof that the applicant had at the time of making his application made the condemned agreement. The making of a deed a month subsequent to the application is no evidence of a prior deed. The making of a subsequent deed is not a part of the *res gestæ* of the inquiry, whether a deed had been previously made. An innocent act of the parties charged, occurring after the event constituting the alleged fraudulent act, is not admissable in evidence against the accused for any purpose. A subsequent innocent deed possesses no fibre of legal suspicion that a prior wicked deed exists. The charge of perjury must not only be explicitly made, but the proof of it under the circumstances of this case must be most positive in its character. The answers of the defendants are required by the bill to be made under oath. The denial of the charge under oath by the defendants is evidence in their behalf against the charge. (122 U. S., 518). Furthermore, perjury in its very nature requires more than mere oath against oath. (Anderson's Law Dictionary, 769.)

In this case the bill is not sworn to, nor is any evidence, however feeble, inferential, or otherwise, offered by complainant to sustain that Budd made with Montgomery the condemned agreement.

Burden and Degree of Proof.

The degree and character of evidence required to sustain a suit in equity to set aside a patent for land is declared in United States *vs.* Maxwell's Land Grant Company, 121 U. S., page 325. That case upholds the rules of evidence contended for in this case. The court says:

"We take the general doctrine to be that when in a court of equity it is proposed to set aside, to annul or to correct a written instrument, for a fraud or mistake in the execution of the instrument itself, the testimony on which this is done must be clear, unequivocal and convincing, and that it cannot be done upon a bare preponderance of evidence which leaves the issue in doubt. If the proposition, as thus laid down in the cases cited, is sound in regard to the ordinary contracts of private individuals, how much more should it be observed where the attempt is to annul the grants, the patents, and other solemn evidences of title emanating from the Government of the United States under its official seal. In this class of cases, the respect due to a patent, the presumptions that all the preceding steps required by the law had been observed before its issue, the immense importance and necessity of the stability of titles dependent upon these official instruments, demand that the effort to set them aside, to annul them, or to correct mistakes in them, should only be successful when the allegations on which this is attempted are clearly stated and fully sustained by proof. It is not to be admitted that the title by which so much property in this country and so many rights are held, purporting to emanate from the authorative action of the officers of the Government, and, as in this case, under the seal and signature of the President of the United States himself, shall be dependent upon the hazard of successful

resistance to the whims and caprices of every person who chooses to attack them in a court of justice; but it should be well understood that only that class of evidence which commands respect, and that amount of it which produces conviction, shall make such an attempt successful."

This proceeding, however, is on a statute, and there is as much greater strictness of proof required in this case over an ordinary equity proceeding as is required to establish forfeiture over what is necessary to prove an ordinary civil obligation. The rule in the Maxwell Land Grant case is affirmed in the United States against the Colorado Coal and Iron Company. (123 U. S., page 307).

The proof must not only establish the fact to the satisfaction of the court that the land in controversy was not chiefly valuable for timber, but it must show that the applicant knew it was not at the time of making his application. (United States *vs.* Iron Silver Mining Company, 24 Federal Reporter, page 560.) There is no evidence in the record satisfying such requirement of law.

Land fit for cultivation is land which in its natural condition is suitable for farming purposes by ordinary tillage. (Keenan *vs.* Griffiths, 34 California, page 581.) If the land was entered and sold in good faith, subsequent inspection of the land which results in modified official opinion about its character does not avoid the patent. (Western Pacific Railroad Company *vs.* United States, 108 U. S., page 510-513. United States *vs.* Colorado Coal and Iron Company, 123 U. S., page 327.)

A person who has procured and paid for land from the United States in good faith on his part under the administration of the laws of the United States by the officers of the Government having charge thereof, as

said officers then understood them to apply to the facts of that case, cannot be deprived of his land because another set of officers of the same Government afterwards make a different application of the same laws to the same facts, otherwise the title to any part of the public domain would never be at rest.

There is No Mistake Shown Against Which Equity Relieves.

It is confidently submitted that the Government cannot set aside a patent for land procured in good faith by the patentee, because of any mistake of fact, misapprehension or error of judgment of fact by the officers of the United States administering the laws under which the sale was begun and perfected. Citizens doing business with the Federal Government have a legal right to assume that agents and officers of the Government transacting its business possess sufficient intelligence and information concerning their duties to discharge them according to law. The Government cannot set aside a patent for lands on the ground of imbecility of its own officers or agents, or on the ground that they were negligent in informing themselves of the facts necessary to be known by them to discharge their duties efficiently.

When the Government enters a court of equity for relief it must appeal to some principle of equity jurisdiction. The lack of care or intelligence of its own officers is not a basis of an equitable proceeding in its favor. It is bound by the acts of its officers and agents in the transaction of its business to the same extent that an individual is. (United States *vs.* Griffith, Court of Claims, page .)

This last case just cited was appealed to this court by the Government and the appeal dismissed at the request of the Government, thereby raising the opinion of

the court of claims in that case to the strength and dignity of the opinion of this court.

Point Two.

The bill avers on page fourteen of the record "that in truth and in fact David E. Budd, said defendant, applied to purchase said lands as aforesaid on speculation, and not intending in good faith to appropriate said land or timber to his own exclusive use or benefit, and that the said Budd had theretofore unlawfully and fraudently made an agreement or contract with said defendant J. B. Montgomery, by which the title which he, said Budd, might acquire from the Government of the United States should inure to the benefit of said defendant Montgomery." This allegation is totally unsupported by evidence. There is no witness who testifies in support of this allegation, nor was there any written testimony offered in the case to sustain it. The court say of this allegation in its opinion found on page forty-five of the record: "If such an agreement was made the evidence certainly fails to show how, when or where it was done. There is no direct evidence of such an agreement, and the circumstances shown lead only to a suspicion, not to a reasonable inference, much less to a conclusion. These circumstances, briefly narrated, are as follows:

"First. Mr. Budd gave a deed of the land to Montgomery within one month from the time of making final proof in the Land Office and receiving the receiver's receipt.

"Second. About the time of this transaction Montgomery purchased a large number of other tracts of land in the vicinity of this one from persons who entered it as timber land, and he was known to be in the market as a buyer of timber land in that locality.

"Third. A man named White spent a considerable

time previous to these purchases made by Montgomery in exploring the lands, and represented himself at the time as being in Montgomery's employ, and he acted as a witness for nearly all of the parties who made entries of timber lands and afterwards sold them to Montgomery, and he was also a witness for the defendant Budd in making his final proof as to this tract.

"These are the only circumstances shown by legal evidence which, in my opinion, tend to prove the grave charge made against the defendant Budd, of having falsely sworn in his application to purchase this land that he did not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he had not, directly or indirectly, made any agreement or contract in any way or manner with any person or persons whomsoever by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself."

It is respectfully submitted that that part of the statute herein construed by the court below had not been violated in spirit or letter, and that there is absolutely no proof, either inferential or otherwise, in the record to uphold the charge made in the bill. The language of the statute describing the agreement therein condemned is: "Any agreement or contract in any way or manner with any person or persons whatsoever by which the title which he might acquire from the Government of the United States should inure in whole or in part to the benefit of any person except himself." This statute must be strictly construed, as it is a criminal one imposing upon the delinquent a penalty for perjury and a forfeiture of land and money.

The statute which the Government is appealing to in this case to reclaim this land and retain the money paid for it is a statute of forfeiture and punishment. A for-

feiture relating to land is defined to be "punishment annexed by law to some illegal act or neglect in the owner of lands, tenements, or hereditaments, whereby he loses all his interest therein, and they go to the party injured as a recompense for a wrong which either he alone or others together with himself has sustained." (2 Blackstone's Commentaries, 267.)

"A penalty by which one loses his rights and interest in his property." (Anderson's Dictionary of Law, page 468.)

The agreement, therefore, which is condemned by the statute is an agreement made before the application was made or the title was acquired by the applicant and that operates in law to vest the title to the beneficiary under such an agreement upon the obtaining of the title by the applicant without any further act being done by the parties to such agreement.

Land must be conveyed by deed under the laws of Oregon and under the common law of this country, and in order that the title should "inure" to Montgomery upon the obtaining of the title from the Government by Budd, Montgomery must have been shown by the evidence to have had a deed to the land, executed by Budd prior to making his application to purchase said land from the Government. No verbal contract would have been such as that the land would "inure" to Montgomery on the procurement of it by Budd; but, as is said above, it must have been such a conveyance to Montgomery by Budd made previously to Budd's application, as that by virtue of such conveyance so previously made the title under such conveyance without further act on the part of Budd would vest in Montgomery.

The agreement condemned by the statute, and which would justify the infliction of the pains and penalties of perjury upon Budd for swearing he had not made,

must come within all the qualities of the agreement denounced by the statute. The sovereign quality of the agreement condemned is that it should under the law so operate as that when the title was procured by Budd, such procurement of it by Budd without further act of Montgomery or Budd, would vest the title in Montgomery. This requires that a conveyance sufficient in law to transfer the title to Montgomery should be shown to have been made by Budd previous to his application to purchase the land from the Government.

The word "inure" is introduced into this statute with its common law significance, which is, when descriptive of an agreement relating to land, such as is above given it. (Anderson's Law Dictionary, page 566.)

There is no evidence to uphold the charge made against the defendant in the bill under this interpretation of the statute, nor is there any evidence to uphold the charge made in the bill under any interpretation of the statute whatever.

Point Three.

The next ground of forfeiture set up in the bill is described in the bill as follows, page 15 of the record:

"That said lands were agricultural in character, fit for cultivation, and valuable chiefly for agricultural purposes, and said land was not at said time or at any time valuable chiefly for its timber."

Section second of the statute found on page 38 of the record describes the land that may be applied for under this act as unfit for cultivation and valuable chiefly for its timber or stone. This language has been construed, it is said, by the Interior Department to describe such land only as is incapable of being made fit for cultivation and have no value except for timber, whereas the court below held the statute meant precisely what it said. The Interior Department holds

that it relates to land found in broken, rugged or mountainous regions, whereas the statute says nothing on this subject. If the statute is construed to mean what it says, there is no difficulty about it. Words and phrases the equivalent of which is not in the statute have been interpolated therein by the Interior Department. These alone furnish the ground of contention in this case. The court below had no difficulty with the law of the case. The court say, page 44 of the record:

"The witnesses show by their evidence that the tract, except about fifteen acres, is timbered, and show nothing as to the value of the timber except that there has not been any market or demand for it. This evidence is insufficient to warrant the cancellation of the patent. But the defendants have not been content to accept a Scotch verdict. They have met the issue with evidence of the most conclusive character. Thirteen witnesses were called who testified that the soil is stony and inferior for farming purposes; that it contains excellent fir and ceder timber, besides hemlock and an under-growth of various shrubs and brush; that the trees are large, tall, and straight and sound, and will yield from 50,000 to 150,000 feet of the best quality of lumber per acre, and this testimony and estimate is not controverted. The field notes made by the Government survey at the time of surveying the land, more than twenty-five years ago, describe the land as being stony and second-rate, and the timber is fir, cedar, and hemlock, and the most convincing testimony of all is a series of twelve photographs taken near the centers of each legal subdivision of the tract. These pictures exhibit, with unerring certainty and faithfulness, magnificent trees standing so near together as to force each other to grow straight and tall. They satisfy the court that this tract is valuable and desirable for the timber upon it, and also that no man would be willing to subjugate

this piece of forest for the mere sake of cultivating it."

The charge against defendant Budd in order to lay the foundation in this case for his conviction of perjury and the forfeiture of his title to the land, and money paid therefor, is a criminal one of the highest gravity, and therefore must be made out up to the full measure of strictness required in the administration of criminal laws. The language of the statute is that it must be "unfit for cultivation, and valuable chiefly for timber." It is not sufficient that there should be left any reasonable doubt of this, but the Government electing to forfeit the title on the terms of this statute must make such a case against Budd as fills the full measure of the statute. The statute must be interpreted, therefore, by the words in the statute, and their exact equivalents.

The declaration in the statute that the land is valuable chiefly "for timber" implies that it has also value for other purposes than timber. The word "chiefly" is a word which compares its timber value with its other value, and requires that it shall have a higher value for its timber than for agriculture. It by no means signifies that it shall have no agricultural value at all when the timber shall have been removed. It relates to the land at the date of the application for its purchase, and at no other time or date; it estimates it in its then condition. The relative value of the land for agriculture and timber is then and there to be determined and if it is valuable for timber chiefly, it is purchasable under the act of Congress, though it may have a subordinate, a contingent value for agricultural purposes as well.

Point "B."

In support of the construction of the statute contended for by the defendants, it is submitted that word "chiefly" therein is the key to its interpretation.

If the land was chiefly valuable for its timber, it was purchasable under the act. "Chiefly" means, first, primary. It means also its higher or leading value. If the land responds in its character to either of these definitions of the word "chiefly," the case must fail. To make a case of perjury, all of these definitions must be negatived and excluded beyond a reasonable doubt. The testimony not only fails to negative the statement that the land was chiefly valuable for timber, but it builds up the most unassailable judicial conviction that its primary value was in its timber.

Its unfitness for cultivation, as this phrase is used in the statute, depends upon the inquiry whether or not its primary value consists in its timber, for the two phrases of the law used in the same section must be construed consistently with each other. The unfitness for cultivation mentioned by the statute is descriptive of its character at the time of the application. If, as it then existed, its primary value was in its timber, it was in contemplation of the statute at the same time unfit for cultivation. If there was doubt about its character under these descriptions of it, still the Government must fail.

Fraud consists in deceit and not in a doubtful application of a statute to a particular state of facts; whether the law applies to the facts assumed to exist or not, is a matter of ministerial or judicial determination, which, though erroneously determined, cannot be made the subject of perjury.

Government officers sold the land described in the bill with the field notes descriptive of the land itself, made by other Government officers, lying before them. These field notes show that the land was primarily valuable for its timber. These notes expressed the judgment of the officers making them. The application made by Budd expressed his judgment that the

chief value of the land was in its timber; whether it was or not, was largely a matter of judgment and opinion. There is, however, perfect agreement between the judgment of the Government officers making the field notes, and the judgment of Budd, that the value of the land was chiefly in its timber. Neither perjury nor fraud can be established in law or in equity by the evidence showing an error of judgment and opinion.

The applicant was called upon to estimate or compare the value of the land for timber and its value for agriculture. It is not sufficient to show by the testimony that his judgment in making this comparison was not such a judgment as the court might render on the facts. It must appear that his statement was willfully false. (Anderson's Law Dictionary, 768.)

The Government cannot forfeit the land or money involved in this controversy without pushing its proof far beyond the establishment of mere error of opinion in the applicant that the land was chiefly valuable for timber, and beyond the region of doubt whether it was so valuable for timber or not; it must go in its proof to the extreme of showing that the oath taken by the applicant was wilfully false, and that the land was so clearly superior it its value for agriculture than for its timber that no reasonable person could have concluded to the contrary.

There is no such proof made by the Government, nor does the evidence introduced against the defendants in this case rise to the dignity in its legal force of exciting a reasonable suspicion against them.

The evidence does not tend to show that Budd applied to purchase the land on speculation. This ground of forfeiture is not separately and distinctly set up in the bill, nor is any testimony offered to uphold it. This ground of forfeiture is separate and distinct in the statute from the ground that he bought it to inure to

Montgomery. In the later method of handling the title there might be no possibility of speculation. The two charges are run together in the bill and no proof is made of either.

All the Material Testimony touching the Character of the Land taken below is not before this Court, and therefore the Judgment Below will not be Reversed on the Facts.

There were offered to the court trying the case photographs of the land which conclusively established its character. These photographs are not in this record, and hence their value and force cannot be seen.

Point Four.

It is charged in the said bill—page 15 of record—that said land contained improvements which did not belong to Budd, to wit: a log cabin, etc. The court below says of this charge, page 45 of the record: "But few words are needed to dispose of the third proposition. The evidence shows that there were no valuable improvements on the land at the time Mr. Budd purchased it. Mr. Doherty, who at one time settled upon and attempted to improve the land, soon became discouraged and abandoned it, his cabin became dilapidated and worthless, and all his other improvements disappeared long prior to Mr. Budd's entry."

It is therefore respectfully submitted that the case of the Government is infirm in the following particulars, to wit:

First. There is no evidence in the record showing that the applicant's affidavit had any influence on the officers of the Land Department in determining whether or not the land described in the patent was chiefly valuable for timber. It appears affirmatively in the record that the Land Department in disposing of this particular land in controversy, had before its officers the field

The Statute Impresses No Limitation on the Patentee's Right of Alienation.

It is claimed that that part of the statute which declares that the applicant must state in his application that he does not apply to purchase the land on speculation, but in good faith to appropriate it to his own exclusive use and benefit, operates to confine the title to the land, when acquired by him, to the patentee; that the legal effect of said part of said statute is to cut the patentee off from the right of alienation, which an ordinary grantee of land enjoys. This assumption is not supported by the instrument of conveyance used by the Government. The certificate of purchase found on page 16 of the Record is absolute in its terms. Under this conveyance by the Government of the land authorized by this statute, a fee simple title is granted to the purchaser. Such a title signifies a pure inheritance, clear of any qualification or condition. It is an estate of perpetuity and confirms an unlimited power of alienation.

Anderson's Law Dictionary, 461.
4 Kent, page 5.
Lott *vs.* Wyckoff, 1 Barber, 575.
Jackson *vs.* Van Zant, 12 Johns, 177.
1 Hilliard R, pages 35–8.
Farnum *vs.* Loomis, 2 Oreg., 32.
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The title, when obtained under this act, may be alienated; may be devised by will and descends to the heirs of the grantee under local laws governing descents and distributions of estates. The right of alienation is not withheld or subtracted from the title to the land vested in the purchaser under the timber act of 1878. Not only does the grant of it to the purchaser include the right in him to alien the land when purchased, but the general policy of the laws of this country favor and uphold such right. This very statute by forbidding the making of an agreement of sale before the application by implication, affirms the right to make such conveyance after the purchase is completed from the Government by the applicant. The statute providing for a forfeiture of the land, if a sale be made before the application, confirms the freedom to sell it after the purchase is completed. The sale is accomplished in law when the certificate of purchase is paid for and delivered. The issuing of the patent afterwards only furnishes the purchaser higher evidence of title, whose seat and strength is in the certificate of purchase. That provision of the statute which requires the applicant to swear that he does not apply to purchase the land on speculation is a different inhibition from the one which forbids a sale prior to the application. The Government, in its bill, does not allege any other act of violation of this phrase of the statute than that Budd had

previously to his application contracted with Montgomery to convey the land to him. The theory of the bill is, pages 14 and 15 of the Record, "that the statute was in no otherwise violated in this particular respect, except than by the act of making by Budd with Montgomery the said alleged agreement."

The Double Ground of Forfeiture in the Bill is Unsupported by Proof.

The statute distinguishes between the inhibition to sell before the application is made and the inhibition against an application to purchase for speculation. In this case but one fact is relied upon in the evidence to establish either or both of the said alleged infractions of the statute, and that is the fact that Budd conveyed to Montgomery one month after his certificate of purchase was procured. That deed is inconsistent with the charge that a deed had been made prior to the application, and is no evidence of some other kind of agreement, showing that Budd purchased the land on speculation. The evidence showing that the land was applied for on speculation might be different from the evidence showing that the applicant had conveyed the land prior to his application by such an instrument as that, by operation of law the title of the applicant, when procured, would inure to his previous grantee. The bill in this case does not distinguish between these two

possible different violations of the statute, but mixes them together and alleges but one act of Budd's, his conveyance to Montgomery, as a violation of both aspects of the statute. There is, however, no evidence sustaining the bill on either theory. The conveyance read in evidence to Montgomery was after the purchase by Budd. There is no other evidence than this deed offered to show that Budd applied to purchase the land on speculation. The exercise by Budd of his right to sell the land after his purchase of it from the Government was legal. The exercise of a legal right does not tolerate an inference of fraud in the party exercising it. This part of the case, therefore, has no legal animation.

notes descriptive of the land itself. It is legally presumed, also, that said officers had a general knowledge of the country of which this piece of land was a part. The law applicable to this state of facts is that where two parties standing in adversary relations deal with each other, possessing equal knowledge of the real facts upon which the transaction between them turns, neither can impute fraud to the other.

The Land Department of the Government had vast and efficient machinery to learn the truth about the land it was authorized to sell. In this particular case it is shown that it had knowledge of the character of the land sold. To this affirmative proof is added the failure of evidence on the part of the Government showing that its officers ever read or relied upon the statement of the character of the land made by the applicant. Fraud and deceit cannot be presumed, but must be proved. The Government was required to show not only that applicant's affidavit was knowingly false in fact, but that the officers of the Government having charge of this sale were destitute of other knowledge of the character of the land sold than that which they got from applicant's affidavit, and that they relied on the truthfulness of applicant's statement in making the sale, and were then and there deceived by it. (Griffith *vs.* the United States, 22 Court of Claims, 193-5.)

Second. The case fails on the further and other ground that no mistake or fraud in law is shown by the evidence. There can be no fraud without deceit, and no mistake without ignorance of the true facts on the part of Government officers selling the land. (2 Bouvier's Law Dictionary, Definition of Mistake.)

If the Government officers acted on their own knowledge of the facts, there is no mistake giving a court of

equity jurisdiction to repeal the patent. (2 Pomroy's Equity. Griffith case Supra.)

Third. Whether the land under the evidence in this particular case was valuable chiefly for timber or agriculture, is not a matter of knowledge in its strict legal sense, but is more a matter of opinion or estimate. In such cases fraud cannot be predicated of an erroneous opinion. (Page *vs.* Bent, 43 Massachusetts, 374. Gordon *vs.* Butler, 105 U. S., p. 558. See also Griffith case.)

Fourth. The issue tendered in the bill alleging that fraud and deceit were practiced upon the officers of the Government, can only be established by the testimony of the officers themselves having jurisdiction of and acting in the sale made. They were the agents authorized by the Government to make sale of the land; whether they were deceived or not by applicant, is a fact that can be proved only by themselves. It must be shown that they acted on the affidavit of the applicant, and that they relied upon it, having no other sufficient knowledge of the character of the land. The opinions of a multitude of outside parties having no official relation to the transaction, that the land was not chiefly valuable for timber, are irrelevant, immaterial and incompetent. The issue was not whether in the opinion of these witnesses the land was chiefly valuable for timber, but it was that applicant had deceived the officers of the Government having jurisdiction of the sale by his knowingly false statement. This issue cannot be built up and sustained by any number of outsiders giving their opinion that the land was not chiefly valuable for timber.

JEFFERSON CHANDLER,
Attorney for Appellee.

On pages 230 to 436, inclusive, of the Record, is shown the official procedure of the Government pursued to settle the fact whether or not the land described in the bill was chiefly valuable for timber and at the same time unfit for agriculture. It appears from said procedure set forth in said part of the Record that the oath of applicant to his application only operated in law, and, in fact, to set the application down for hearing before the Register having jurisdiction of the matter. When so set down, oral testimony to sustain the application was taken by the Register, who certified to the respectability of the witnesses examined. On this testimony the Register then and there sustained the application of Budd to purchase the land in controversy. The witnesses sworn have in no particular been impeached; no evidence of their corruption in giving said testimony is found in the Record. It is immaterial that other witnesses differ with the witnesses examined before the Register in opinion concerning the relative value of the land for timber and agriculture. Such difference of opinion in other witnesses, subsequently expressed, in no way operates in law to impair the judgment of the Register on the testimony offered to and heard by him to sustain Budd's application to purchase the land. The judgment of the Register duly entered up, that the land purchased by Budd was chiefly valuable for timber, cannot be overthrown or impaired by any number of witnesses afterwards stating that they did not estimate the value of the land for timber as the Register did upon the evidence heard by him. Fraud or corruption in making up the record of the Register must be affirmatively shown in order to disturb said Record. Of this there is no pretended evidence.